REGISTERED No. D. 222

The Gazette of India

PUBLISHED BY AUTHORITY

No. 13] NEW DELHI, SATURDAY, APRIL 1, 1961/CHAITRA 11, 1883

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 21st March 1961:—

Issue No.	No. and Date	Issued by	Subject
51	S.O. 599, dated 17th March, 1961.	Ministry of Home Affairs.	The President nominates Shri Daying Ering to fill a seat in the House of the People.
52	S.O. 600, dated 18th March, 1961.	Ministry of Finance.	Terms and Conditions for the amalgamation of New Citizen Bank of India Ltd., Bombay with the Bank of Baroda Ltd.
53	S.O. 601, dated 20th March, 1961.	Election Commission, India.	Proposals relating to matters in regard to the Two-Member Constituencies (Abolition) Act, 1961, as respects the State of Punjab.
54	S.O. 602, dated 20th March, 1961.	Do.	Proposals regarding Two-Member Constituencies (Abolition) Act, 1961, as respects the State of Gujarat.
55	S.O. 603, dated 20th March, 1961.	Do.	Appointing Shri R. M. Vats, P.C.S., Magistrate in addition to the officer already appointed.
56	S.O. 604, dated 20th March, 1961.	Ministry of Information and Broadcasting.	Approval of films specified therein.
57	S.O. 605, dated 20th March, 1961.	Ministry of Finance.	The Central Civil Services Revised Pay (3rd Amendment) Rules, 1961.
58	S.O. 653, dated 21st March, 1961.	Ministry of Steel, Mines and Fuel	Amendment in S.O. 2112 dated 24th August, 1960

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines Delhi Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi-11, the 22nd March 1961

S O. 672.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order pronounced on the 28th February, 1961 by the Election Tribunal Trichur.

BEFORE THE ELECTION TRIBUNAL, TRICHUR

Tuesday 28th February 1961 corresponding to 9th Phalguna 1882 (Saka)

Present: Shri C. M. Mathew, B.A. & B.L., Member, Election Tribunal, Trichur.

ELECTION PETITION 14 of 1960

K. Sadanandan—*Petitioner*

Versus

1. K. Madhava Menon
2. Hajee Ebrahim Sulaiman Sait
3. Joseph Mathen
4. Joseph Mundassery
5. P. Narayanan Nair
6. Ephraim Muamby

Repondents.

This petition having come up for final hearing on 21st February and 22nd February 1961 in the presence of Advocates S/Shri S. Easwara Iyer and V. Bhaskara Menon for the Petitioner and K. V. Surianarayana Iyer and T. S. Venkitachala Iyer for the 1st Respondent and no appearance for the other Respondents and having stood over for consideration till this day, the Tribunal passed the following.

ORDER

This is an election petition submitted by the petitioner, K. Sadanandan, under sections 81, 82, 83 and 84 of the Representation of the People Act, 1951, against the respondents six in number for declaring the election of the first respondent Kozhippurath Madhava Menon, to the Rajya Sabha, as void and for the petitioner to be declared elected to the same.

2. The main averments in the petition are the following:—The petitioner and the respondents have filed their nomination papers for the election of three members to the Council of States (Rajya Sabha) from the Kerala State and their nomination papers were duly accepted by the Returning Officer. The petitioner and the respondents were the only contesting candidates. The election to the Council of States was to be had by the elected members of Legislative Assembly of Kerala and the same was held on 24th March 1960 at the Secretary's room, Legislative Secretariat Buildings, Trivandrum, and after the polling of the votes, the count was taken in the presence of the candidates and their agents on the same day itself. At the beginning of the counting the Returning Officer, after scrutinising the ballot papers, took out from the ballot box and placed separately two ballot papers, one marked "X" (Ex. P-8) and the other marked "1 X", "2 X" and "3 X" (Ex. P-7), declaring that those two are invalid. None of the candidates or their agents objected to that decision at that time. The ballot paper Ex. P-8 contained no other preference or mark or figures and the figure "X" was placed opposite to the name of the petitioner indicating the clear intention of the voter. Regarding Ex. P-7 it was found that the figure "1 X" is placed opposite to the name of the second respondent. Excluding the abovesaid two

ballot papers the Returning Officer counted the votes and the result of the counting was as follows:—

(a)	Number of original votes polled by the petitioner ..	31
(b)	Number of original votes polled by the 1st respondent .	30
(c)	Number of original votes polled by 2nd respondent .	31
(d)	Number of original votes polled by 3rd respondent .	32

But the other three candidates, *viz.*, the respondents Nos. 4, 5 and 6 did not get any vote. According to the petitioner in pursuance to the above result of counting, the Returning Officer ought to have declared the petitioner, the 2nd respondent and the 3rd respondent as duly elected. But subsequently the first and second respondents raised the contention that Ex. P-7 ballot paper was valid and Ex. P-8 was invalid. The petitioner objected to the reopening of the decision of the Returning Officer and the reception of the aforesaid ballot paper Ex. P-7 as valid, since it contravened the provision contained in Rule 116 of the Representation of People Act (Conduct of Elections and Election Petitions) Rules, 1956, *viz.*,—

(a) Figure '1' is not marked;

(b) At any rate another figure, *viz.*, 'X' is set opposite to the name of the 2nd respondent along with figure '1';

(c) The figure 'X' is a mark by which the elector may afterwards be identified and it is deliberately put along with the other figures making it possible for identification of the elector.

The petitioner also contended that if the Returning Officer's decision is reopened Ex. P-8 ballot paper alone must be accepted as valid, since the intention of the voter is clear and apparent from the fact that he has not exercised any other preference in favour of any of the respondents. The Returning Officer, who is the Secretary of the Legislative Assembly, Trivandrum, without fully considering all the objections and contentions raised by the petitioner, accepted Ex. P-7 as valid and rejected Ex. P-8 as invalid. He passed a written order also which is marked Ex P-6 In the order passed, the Returning Officer considered only one of the objections raised by the petitioner, *viz.*, that the mark "X" found in Ex. P-7 would enable the identification of the voter at a later state and did not consider the other objections raised by the petitioner regarding the validity of Ex. P-7. After accepting Ex. P-7 as valid, the Returning officer fixed the quota for declaring a candidate duly elected as 3126 (counting each valid vote as 100 as prescribed by the Rules). Since the second and third respondents had obtained 3,200 votes, they were declared duly elected. Since the first respondent had obtained a number of second preference votes, the Returning Officer then proceeded to transfer the surplus obtained by the second and third respondents to the first respondent. After calculation the Returning Officer announced that the first respondent has obtained 3,148 votes and hence he also was declared elected. According to the petitioner, the calculation made by the Returning Officer regarding the transfer of surplus is erroneous

3. The petitioner states that the result of the election has been materially affected:

(a) by improper reception of Ex. P-7 ballot paper;

(b) by refusal to accept Ex. P-8 ballot paper;

(c) by the non-compliance, by the Returning Officer during the process of counting, with the Rules contained in the Representation of People (Conduct of Elections and Election Petitions) Rules, 1956.

The petitioner further states that if a re-count is made with due regard to the statutory provisions, the petitioner will have to be declared duly elected. He further states that Ex. P-7 ballot paper accepted as valid by the Returning Officer is really invalid for the following reasons:—

(a) The placing of figure 'X' along with the figure '1' opposite to the name of the second respondent renders the said ballot paper invalid by virtue of Rule 116(c) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956.

(b) At any rate, it cannot be contended that the figure '1' is marked in the said ballot paper since the figure '1' and 'X' are placed together so that in Roman numerals it will read as nine Hence it contravenes sub-rule (a) of Rule 116.

(c) In any view, the marking of the figure 'X' also in the said ballot paper contravenes the mandatory sub-rule (d) of Rule 116, as the elector may afterwards be identified thereby.

The petitioner also states that the marking of figure 'X' also was done deliberately at the instance of the Chiefs of the Praja Socialist Party and the Muslim League and the second respondent and that the facts and circumstances of the election justifies the conclusion.

4. The petitioner also states that the election was a keenly contested one, the first and third respondents having been put by the Indian National Congress Party, while the second respondent was put up as the candidate of the Muslim League and officially supported by the Praja Socialist Party. There had been an understanding even during the last General Elections to the Legislative Assembly to forge United Front against the Communist Party by the Congress, Praja Socialist Party and Muslim League. As a result, the Communist Party members in the Assembly were 29 in number as against 94 members of the United Front of Congress, Praja Socialist Party and the Muslim League, out of the total number of 126 elected members in the Assembly. The strength of the parties in the Legislative Assembly was such that Congress, Praja Socialist Party and the Muslim League had just hardly the minimum number to return their three candidates, *viz.*, the respondents 1, 2 and 3. Thus, every one vote was material and decisive. He further states that the formation and composition of the Ministry followed by the General Elections resulted in serious differences and rifts in the parties of the United Front. Under that set-up the petitioner's nomination was proposed and signed by a member of the Assembly belonging to the Praja Socialist Party and the 6th respondent's nomination was also proposed and signed by another M.L.A. belonging to the Praja Socialist Party. The petitioner was at that time a member of the Praja Socialist Party. It created a difficult situation for the leaders of the Congress, Praja Socialist Party and Muslim League, which was further aggravated by the announcement of the Communist Party to support the petitioner in the election. The above said leaders apprehended that some of their M.L.As. might go against the mandate of the party in the election and they tried their best to bring them round under threat of disciplinary action or otherwise. In these circumstances, the petitioner states that it is quite probable that they have directed a dissenting and recalcitrant member, who according to them would vote for the petitioner, to vote in a particular manner enabling verification and identification of the elector. The elector has voted for the second respondent marking "1 X" in Ex. P-7 against his name and in all probability done so by arrangement with and on the direction of the leaders of his party and the 2nd respondent, with a view that at least the petitioner may not get his vote, which, they believed the petitioner might otherwise get and that the 2nd respondent may secure his vote. If it is found that Ex. P-7 ballot paper is valid, the Returning Officer ought to have found Ex. P-8 ballot paper also valid. The Returning Officer erred in rejecting Ex. P-8 and accepting Ex. P 17. On the above grounds the petitioner prays:—

(a) That the petition may be referred to an Election Tribunal for trial;

(b) A scrutiny and recount of ballot papers and votes be taken in due conformity with the statutory Rules regarding acceptance and refusal of votes as stated above;

(c) That the election of the first respondent be declared void for reasons stated above;

(d) That the petitioner be declared elected to the Council of States (Rajya Sabha); and

(e) That the contesting respondents be ordered to pay the costs of the petitioner.

5. The first respondent resists the petition and has filed a counter-statement repudiating the averments in the petition and affirming that his election was valid and supporting the conduct of the Returning Officer in accepting Ex. P-7 as valid and rejecting Ex. P-8 as invalid. He also supports the entire conduct of the Returning Officer as legal and according to law. According to him, while taking the ballot papers out of the ballot box the two ballot papers concerned, whose validity was disputed, were tentatively put aside by the Returning Officer with a view to go into the question of their validity, after all the ballot papers were taken out and sorted. There was no decision arrived at by him regarding their validity at that stage, nor was there any declaration of any decision made then. The rules do not contemplate a declaration of the decision regarding the validity or otherwise of a ballot paper. The endorsement by the Returning Officer on the ballot paper of the word "rejected" and the ground of such rejection as provided

in Rule 120, Clause 7 constitutes rejection of the ballot paper as invalid. The only evidence of rejection of the ballot paper is the endorsement as contemplated in Rule 120, Clause 7. There was no such endorsement made by the Returning Officer at that stage. The allegation that the Returning Officer counted the votes and excluded the two ballot papers at that stage and arrived at a result is not true. All that the Returning Officer did was to take out and sort the ballot papers as stated above and thereafter he proceeded to consider the question of validity of the two ballot papers. Such a sorting out of the ballot papers was done only as a matter of convenience. At that stage it was not competent for the Returning Officer to declare that any of the candidates was duly elected. The respondent states that Rules 120, 121 and 122 required that before counting the number of ballot papers and crediting each of the candidates with the value of these papers, the Returning Officer should comply with the rules regarding the rejection of the ballot papers and make appropriate endorsements thereon. The respondent also states that the contentions regarding the two ballot papers were raised by the respondents 1 and 2 even at the time when they were taken out of the ballot boxes and put aside tentatively for being scrutinised later. The allegations of the petitioner as against that are denied by the first respondent. According to the first respondent, the petitioner raised only one objection regarding Ex. P-7 that the mark therein made it possible for the identification of the elector later. The petitioner at no stage did raise the contention now set forth either arising out of Rule 116(1)(a) or Rule 116(1)(c). Respondent also would state that the contentions raised by the petitioner against the validity of Ex. P-7 are without substance. He also states that the contentions of the petitioner that Ex. P-8 is valid are untenable. The contention that the cross-mark "X" is a figure within the meaning of the rules is incorrect. The 'figure' or 'figures' contemplated by the rules are only numerals like 1, 2, 3 etc. and not Roman numerals. The cross-mark "X" in Ex. P-7 is not a figure under the rules but, if at all, is only a mark. The contention that figure "1" and the cross-mark "X" are placed together on the ballot paper and that consequently in Roman numerals it could be read as nine, is obviously untenable. It has to be noted in this connection that the cross-mark "X" is also made against figures 2 and 3 on the same ballot paper and consequently the assumption that the cross-mark "X" should be taken as Roman numeral is not correct or warranted. Rule 116(c) applies only to cases where the ballot paper contains the figure "1" with other figures such as 2, 3 etc. set opposite the name of the said candidate. The existence of a cross-mark "X" after the figure "1" does not attract rule 116(c). There is also no contravention of rule 116(1)(a), (c) or (d). The cross-mark "X" found after the figure "1" does not in any manner enable the elector to be identified later. The allegation that there was a reopening of a decision of the Returning Officer also is denied. There was no decision arrived at by him earlier at all. The decision was arrived at only after hearing the petitioner and the respondents and their agents and then the Returning Officer endorsed on the ballot paper, Ex. P-8, the word "Rejected" and recorded the grounds therefor separately, in which he found Ex P-8 invalid and Ex. P-7 valid. It was only thereafter that the Returning Officer counted the number of papers in each parcel and credited the candidates concerned with the value of those papers as required to be done under rule 120 and 121. Further the steps for the purpose of ascertaining the quota were also thereafter taken by him and he ascertained the quota for declaring the candidate duly elected as 3,126. The allegation about the calculation made by the Returning Officer regarding the transfer of surplus and second preference votes is erroneous and incorrect besides being vague. There has been no improper reception of any vote, nor was there any refusal to accept any valid vote. The order passed by the Returning Officer is correct and calls for no interference. The only contention raised by the petitioner at that time are the contentions mentioned in the order of the Returning Officer and those contentions were rightly repelled. The petitioner is not entitled to a recount of the votes as prayed for and no satisfactory grounds have been set forth for a recount. The election of the first respondent is valid and not liable to be declared void for all or any of the reasons set forth in the petition, nor is the petitioner entitled to have it declared that he is elected to the Rajya Sabha. On the above contentions the first respondent prays that the petitioner's petition may be dismissed with costs to the first respondent.

6. On receipt of the petition, the Election Commission, India, under sections 86 and 88 of the Representation of People Act, 1951, appointed Sri M. Balakrishna Menon, District and Sessions Judge, Ernakulam, as the Member of the Election Tribunal, for the trial of the said petition and Ernakulam as the place where the trial of the petition shall be held as per Notification, dated 31st May 1960. The said Tribunal having resigned, myself was appointed Member of the Tribunal to try this case and the place of trial was notified as Trichur (vide notification dated 18th June 1960).

7. On notices being issued the petitioner and respondents 1, 2 and 5 entered appearance. The first respondent has filed a detailed written statement

repudiating the averments in the petition etc. as stated above. The second respondent's advocate filed a written statement stating that the second respondent's contention are also the same as that of the first respondent and hence the contentions raised by the first respondent may be treated as the second respondent's contentions also. The 5th respondent filed a written statement stating that he has no contentions to advance against the petition and that in any view, he should not be made liable for the costs of these proceedings. The other respondents remained exparte.

8. On the contentions of the parties, the following issues were raised for trial:—

1. Whether the Returning Officer placed separately 2 ballot papers one marked 'X' and the other marked '1X', '2X', '3X' as alleged in para 3 of the petition? Whether there was and could be a scrutiny of the ballot papers as alleged therein? Whether there was a declaration of the validity of the Ballot Papers by the Returning Officer at that time?

2. Whether the oral evidence of such declarations is admissible under Rule 120 Clause 7 of the Representation of the People (Conduct of Elections and Election Petitions) Rules 1956 and whether such a declaration is valid?

3. Was there a reopening of the declaration of the validity of the two ballot papers as alleged in the petition? If so, is it illegal?

4. Whether the vote recorded in the Ballot Paper marked 'X' against the name of the petitioner is valid as contended by the Petitioner? Whether the contentions raised in para 11 of the petition regarding the validity of the ballot paper marked 'X' is available in view of the provisions contained in rule 116(1)(a)?

5. Whether in the facts and circumstances of the election, the Ballot Paper marked '1X', '2X' and '3X' contains marks by which the elector may thereafter be identified?

6. Whether the ballot paper marked '1X', '2X' and '3X' is invalid for the reasons mentioned in para 10 of the petition that the marks 'X' are set against the figures 1, 2 and 3?

7. Whether the petitioner is entitled to raise the plea that the mark 'X' in the ballot paper marked '1X', '2X' '3X' was put to enable verification and identification of elector in view of the vague and indefinite character of the allegations set forth in para 21 of the petition?

8. Whether there has been an improper reception of an invalid vote and improper rejection of a valid vote? Whether the result of the election has been materially affected on that account?

9. Whether the election of the first respondent is liable to be declared void and whether the petitioner is entitled to the declaration that he is duly elected?

10. To what relief, if any, is the Petitioner entitled?

11. Regarding costs.

(Signed)
C. M. Mathew,
Member, Election Tribunal.
8-10-1960.

9. The petitioner examined himself and 5 other independent witnesses who are Pws. 2 to 6 and also proved Exs. P-1 to P-15, in support of his petition. By way of counter evidence, the first respondent examined the second respondent as RW 1 and also examined another independent witness as Rw 2. The evidence was closed on 14th February 1961. Arguments were heard on 21st February 1961 and 22nd February 1961.

10. *Issues* 1 *to* 3.—The pleadings which represent these three issues are contained in para 3 to 12 of the petition. The case of the petitioner in this behalf, to put it briefly, would be that at the time of the first sorting of the ballot papers taking them out of the ballot box, the Returning Officer placed separately the two disputed ballot papers, Exs. P-7 and P-8, and then orally declared that both of them were invalid and then he proceeded to count the votes. When it was

found that the first respondent got only 30 first preference votes and the petitioner 31 first preference votes, respondents 1 and 2 raised the contention that Ex. P-7 was valid and Ex. P-8 was invalid. Consequent upon this contention the Returning Officer respond his first decision which he had already made orally and then after hearing the parties, the Returning Officer upheld the contention of respondents 1 and 2 and ordered accordingly, rejecting Ex. P-8 as invalid and accepting Ex. P-7 as valid He also passed a written order then and there which is Ex. P-6. The petitioner would further contend that he protested against the conduct of the Returning Officer in reopening his first decision. This allegation of a first oral declaration of the Returning Officer and then a reopening and a final decision later is disputed as incorrect by the first respondent in his written statement. Hence these issues.

11. These allegations being disputed as incorrect and untrue, the burden is on the petitioner to prove his averments in this behalf. The petitioner intends to prove these issues by his own sworn testimony and the sworn testimony of PW 3, the Returning Officer. PW 3 practically denies this averment as untrue. According to him there was the Assistant Returning Officer also helping him in the matter of counting, sorting and scrutiny of ballot papers. According to him while the ballot papers were taken out of the ballot box and scrutinised, the Assistant Returning Officer placed before PW 3, Exs. P-7 and P-8 for his decision since they were found to be doubtful cases. To a specific question whether he did not say at that time that Exs. P-7 and P-8 were invalid, he definitely said "no" and he adds that he did not say so because before he takes a decision he wanted to hear the parties. Admittedly the parties concerned were present. He also adds that he heard the objections regarding Exs. P-7 and P-8 before the counting and then passed the order Ex. P-6 and wrote on Ex. P-8 rejecting the same. Though PW 3 was treated as hostile to the petitioner, on reading his sworn testimony as a whole, I do not see anything in his testimony to disbelieve him. He also swears in cross-examination by the first respondent that in the scrutiny of the ballot papers ending with the declaration he strictly followed the rules. Evidently the sworn testimony of PW 3 does not help the petitioner in his contention covered by these issues. Then the only evidence in this behalf to support the petitioner's case is the highly interested testimony of the petitioner. No other independent evidence also is attempted by the petitioner though the second respondent was admittedly present at the time of the sorting and counting of the ballot papers. No suggestion was put to him in cross-examination regarding this aspect. It is admitted by the petitioner that there were other parties concerned and their agents and the Assistant Returning Officer present at the time of the sorting, scrutiny and counting. There is no attempt on the part of the petitioner to examine any of them. So what remains is the testimony of the petitioner only to support his averment in this behalf. According to PW 1, the Assistant Returning Officer physically opened the ballot box and took out the ballot papers in the presence of himself and respondents 1 to 3 and the agents of the other respondents. Then the Returning Officer scrutinised the ballot papers and set apart two ballot papers. Those two ballot papers were examined by himself and respondents 1 to 3 and the agents of the respondents present. He would add that to their surprise they found that these two ballot papers contained a cross mark. He would say that the Returning Officer found that these two ballot papers were invalid and proceeded to sort the remaining ballot papers in the 7 trays kept there. According to him the sorted ballot papers were then counted and the result was found to be that there were 32 first preference votes for the third respondent, 30 first preference votes for the first respondent and for the petitioner and the 2nd respondent 31 first preference votes. According to him it was then that the first and second respondents raised the contention that one of the two ballot papers was invalid and the other was invalid. He would add that he objected to the reopening of the Returning Officer's earlier decision and also raised further objections regarding the validity of Ex. P-8 and invalidity of Ex. P-7. It was then according to him that the Returning Officer rejected Ex. P-8 and accepted Ex. P-7 by the order Ex. P-6. The story put forward by the petitioner appears to be improbable for reasons more than one, as pointed out by the first respondent's counsel. In the first place no such oral decision or declaration is contemplated by the rules. The Returning Officer would swear that he did everything in accordance with the rules. Rule 120 sub-rule (7) being the relevant rule. I shall quote the same below:—

> "The Returning Officer shall then scrutinise the ballot papers taken out of the ballot boxes as well as the postal ballot papers taken out from the covers and separate the ballot papers which he deems valid from those which he rejects endorsing on the latter the word "Rejected" and the ground of such rejection."

No question of any oral decision arises according to the rules in the manner set forth by the petitioner. It appears from the above quoted rule that the rejection

of an invalid ballot paper is an important factor and that the act of rejection has to be done by endorsing on the invalid ballot paper the word "rejected". A statement of the ground of such rejection also appears to be necessary. Unless and until those two are done it cannot be said that a decision has been taken regarding any disputed ballot paper. In Ex. P-8 there is the endorsement "rejected" made by the Returning Officer. The genuineness of that is not disputed. The grounds of such rejection also has been stated as per Ex. P-6 order as enjoined by rule 120(7). When it is necessary that the rejection has to be done like this and the relevant records show that all these formalities have been complied with, it is idle to contend that the Returning Officer made an oral declaration unwarranted by the rules. Further the petitioner would concede in his sworn testimony that at the time of the alleged oral declaration in the first instance, no order "rejected" was written on Ex. P-8. In cross-examination the petitioner admits that the Returning Officer heard the arguments of the parties concerned which lasted for about one hour. According to the petitioner the Returning Officer after hearing the arguments wrote Ex. P-6 order and read out the same. When the petitioner was asked whether it was not after writing Ex. P-6 order that the Returning Officer wrote on Ex. P-8 the word "rejected" and initialled it, he would say that he does not know the exact time when the Returning Officer wrote the same and initialled it. However he has no case that the Returning Officer wrote the word "rejected" on Ex. P-8 before writing and pronouncing Ex. P-6 order. The writing on Ex. P-8 "rejected" must naturally and necessarily come as a consequence of Ex. P-6 order. Therefore it is most improbable to think that the Returning Officer wrote the word "rejected" on Ex. P-8 before hearing the parties and the pronouncing of Ex. P-6 order.

12. Another circumstance worthy of notice in this connection is that in Ex. P-6 order there is no reference to any contention of the petitioner that there was an oral declaration in the first instance and there was a subsequent reopening of that declaration and that he protested against the same as is now contended by him. PW 3 swears that he has considered all the contentions raised by all the candidates or their agents in Ex. P-6 order. If really there was such an earlier declaration, naturally the petitioner would have raised such a contention and that contention might ordinarily have found a place in the order, evidently because it is an important contention. So the tenor and contents of the order Ex. P-6 also militate against the contention of the petitioner in this regard.

13. Another contention advanced on behalf of the petitioner was that PW 3 has admitted that the sorting and arranging of the ballot papers in the different trays were done before the writing and pronouncing of Ex. P-6 order which probabilises the oral declaration as stated by the petitioner and in that action of the Returning Officer, the sequence contemplated in sub-rules (7) and (8) of rule 120 was violated and consequently the proceedings were illegal. Both these contentions appear to be untenable. PW 3 does not admit the alleged sequence of the process in the counting. PW 3 was asked whether after the placing of Ex. P-7 and Ex. P-8 before him, he did not arrange the remaining ballot papers and he said that arranging comes in only after he gave decision on the doubtful votes, *viz.*, Exs. P-7 and P-8. That appears to be natural and in accordance with the rules. The following portion in PW 3's sworn testimony having been relied upon by the petitioner, I shall quote below:—

> "After placing Exs. P-7 and P-8 before me, the other ballot papers were sorted. Was not the sorting based on the first preference in each ballot paper? (Question). I am not definite about it because it was done by my Assistant. It may be according to the first preference. (Answer). The sorting was effected by putting the ballot paper in each tray. The ballot papers in each tray were not counted because it could not be done before decision regarding P-7 and P-8. The candidates were heard as to what they had to say about Exs. P-7 and P-8. Ex. P-7 and P-8 were given to every candidate present to examine them. The petitioner contended that Ex. P-8 contained a preference in his favour and that it is a valid vote. While the other ballot papers were sorted by my Assistant, I handed P-7 and P-8 to the candidates. Did you say at that time that Exs. P-7 and P-8 are valid? (Question). No, I did not say because before I take a decision I wanted to hear the parties. (Answer)."

From the above portion of his testimony the learned counsel for the petitioner would single out the statement of PW 3 that the sorting made by his Assistant may be according to the first preference and that the sorting was effected by putting the ballot papers in each tray. I think the deposition has to be read as a whole. If so, no particular emphasis could be given to that portion of his testimony. He only states that he is not definite about the mode of sorting adopted by his Assistant. Even conceding for arguments' sake that after the

placing of Exs. P-7 and P-8 before the Returning Officer for decision, the Assistant Returning Officer proceeded to sort the other ballot papers by putting them in his tray, I do not think that any rule in respect of counting as enjoined by section 120 has been violated. The Returning Officer also definitely swears that the ballot papers in each tray were not counted because it could not be done before decision regarding Exs. P-7 and P-8. There is absolutely no reason to disbelieve PW 3. Nor was any point pressed before me why PW 3 should be disbelieved. Hence the contentions of the petitioner in this regard also have to be over-ruled

14. In the above circumstances, I think it is very unsafe to act upon the interested testimony of PW 1. There is no other reliable evidence to support the contentions of the petitioner regarding these issues. The circumstances pointed out above also are against the petitioner's case. I therefore hold that there was no oral declaration regarding the validity of the disputed ballot papers Exs. P-7 and P-8 as contended by the petitioner. As such no question of reopening the alleged declaration of the two ballot papers arises since I find that there was no such earlier declaration. I hold that there was only one declaration contained in Ex. P-6 order followed by the endorsement 'Rejected' on Ex. P-8 and no earlier declaration. I also find that no illegality has been proved regarding the conduct in the scrutiny and counting. Those are the only points which were pressed regarding issues 1 to 3 and those points are found against the petitioner. Consequently issues 1 to 3 also were found against the petitioner.

15. *Issues* 4 *to* 8.—These issues relate to the validity or otherwise of Exs. P-7 and P-8. The real crux of the matter covering these issues is covered by issue 8 which runs as follows:—

> "Whether there has been an improper reception of an invalid vote and improper rejection of a valid one? Whether the result of the election has been materially affected on that account?"

The questions covered by issues 4 to 7 are the alleged grounds which lead to the decision on issue No. 8. According to the petitioner Ex. P-8 ought to have been found to be valid and Ex. P-7 invalid. The Returning Officer accepted Ex. P-7 as valid and rejected Ex. P-8 as invalid. In other words the question is whether the Returning Officer's decision is correct or not. The relevant provision in this regard is section 100 sub-section (1) (d) (iii) of the Representation of the People Act, 1951, which enjoins that if the Tribunal is of opinion that the result of the Election, in so far as it concerns a returned candidate, has been materially affected by improper reception, refusal or rejection of any vote, or the reception of any vote which is void, the Tribunal shall declare the election of the returned candidate to be void. Hence I shall presently proceed to examine the validity or otherwise of Ex. P-7 and Ex. P-8 to find out whether the abovesaid provision has been offended in any manner by the decision of the Returning Officer in respect of Exs. P-7 and P-8.

16. In the first instance I shall take up Ex. P-8 for consideration. Ex. P-8 contains only a cross-mark ("X") against the petitioner's name. The Returning Officer has rejected Ex. P-8 under rule 116(1)(a) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, there being no preference marked in it for any candidate. The point for consideration therefore is whether Ex. P-8 has been improperly rejected by the Returning Officer. The relevant provision in the abovesaid rules which are worthy of consideration are rules 101 and 116, which I shall quote below:—

> "101. *Votes and Preferences to be exercised by the electors.*—(1) Every elector shall have one vote only.
>
> (2) An elector in giving his vote—
>
> (a) shall place on his ballot paper the figure "1" in the space opposite the name of the candidate for whom he votes; and
>
> (b) may, in addition, place on his ballot paper the figure 2, or the figures 2 and 3, or the figures 2, 3 and 4 and so on in the spaces opposite the names of other candidates in the order of his preferences."
>
> "116. *Grounds for declaring ballot papers invalid.*—(1) A ballot paper shall be invalid on which—
>
> (a) the figure 1 is not marked; or
>
> (b) * * *"

The vote in this case is Single Transferable vote. Rule 101 enjoins the mode in which the voting is to be effected and section 116 lays down the cases where the ballot papers are to be declared invalid. So these two rules have to be read together to understand the scope, meaning and spirit of the provisions. It is also worthwhile to quote a portion from page 226 of Indian Elections and Election Petitions by Srivastava 1959 Edition wherein the author deals with rule 116 (1) (a):—

> "The grounds for declaring a ballot paper invalid may now be considered clause-wise. Clause (a) refers to cases where the figure 1 is not marked at all. In such cases the first preference cannot be ascertained and the ballot paper cannot be made use of in the very first operation in the process of counting so that it cannot but be held invalid."

Here in this case Ex. P-8 does not contain the figure '1' and consequently rule 116(1)(a) applies to this case. Therefore it is abundantly clear that Ex. P-8 was rightly rejected by the Returning Officer both on the basis of rule 116(1)(a) and on the ground that it cannot be made use of in the process of counting. The learned counsel for the petitioner however argued that section 116(1)(a) may not be treated as mandatory but only directory and in Ex. P-8 there is substantial compliance in indicating the preference against the petitioner especially in view of the fact that there is only one cross-mark and that against the petitioner. I think there is no substance in this contention in the face of the special directions regarding voting enjoined by rule 101 and when it is seen that practically Ex. P-8 is of no use in the process of counting as I have stated above. It cannot also be said that there is substantial compliance in the face of the provision contained in rule 101 and the instructions contained in Ex. P-5 regarding the voting which, according to the petitioner himself had been circulated to all the voters. The special system of this kind of voting relating to single transferrable vote has also to be taken into account. Though the learned counsel for the petitioner relied upon certain rulings regarding substantial compliance and as to how the intention of the voter has to be gathered, I may state here that none of those rulings has any bearing on this particular system of voting covered by rule 101. Hence it is unnecessary for me to go into such rulings since they are inapplicable to the facts of this case. For the foregoing reasons I hold that the Returning Officer rightly rejected Ex. P-8 as invalid.

17 The next point for consideration is the validity or otherwise of Ex. P-7. Ex. P-7 contains the preference according to rule 101. The figure "1" is put against the second respondent, figure "2" against the third respondent and figure "3" against the first respondent. So far it is in accordance with the rule but besides these preference, Ex. P-7 contains a cross-mark against all those preferential figures. The sole question is whether by virtue of this cross-mark the vote is invalid. The Returning Officer after hearing the parties has accepted it as valid. His reasons are given in Ex. P-6 order. This finding of the Returning Officer is vehemently impeached on various grounds by the petitioner. Ex. P-7 is attacked by the petitioner as invalid mainly on the grounds of the provisions contained in section 116(1)(c) and (d) which I shall quote below:—

"116. *Grounds for declaring ballot papers invalid*—

(1) A ballot paper shall be invalid on which—

(a) * * *.

(b) * * *.

(c) the figure 1 and some other figures are set opposite the name of the same candidate; or

(d) any mark is made by which the elector may afterwards be identified; or

* * *"

In the first instance, I shall consider the application of sub-section (c) *i.e.* what is the effect of the cross-marks in Ex. P-7 besides the figures 1, 2, 3. Rule 116(1)(c) enjoins that the ballot paper shall be invalid only if some other figures are set opposite the name of the same candidate The question is whether the crossmarks found in Ex. P-7 are figures as contemplated in the said rule. It is common ground that the word "figure" has not been defined in the Representation of the People Act, but there is sufficient and clear indication as to what is meant by figure or figures in the relevant rules. That is clear from a reading of rule 101 with rule 116 wherein the word "figure" and 'figures" are used. Rule 101 deals with votes and preferences to be exercised by the electors and rule 116 deals with the grounds for declaring ballot papers invalid. Naturally these two rules must be read together. From a reading of these rules it is abundantly clear that what is intended in the rules by the words "figure" or "figures" are numerale like 1, 2, 3 and so on. The words "some other figures" occurring in rule 116(c) can also be only the

numerals 1, 2, 3 and so on which when read along with figures 1, 2 3 and so on would alter the meaning and intention of the preference. The learned counsel for the petitioner would however contend that the cross-mark can be read as a Roman numeral, "X" (ten) or in the alternative that along with the numeral "1" it can be read as nine (IX). But here it has to be noted that the cross-mark is found to be a little away from the figure "1" and hence that interpretation is not possible or at least, would be much strained and not natural. Further the same cross-mark is put against all the preferential numerals 1, 2 and 3. As regards numerals 2 and 3 put in Ex. P-7 no such interpretation as the petitioner would give is possible. Evidently the cross-marks have to be reckoned as separate marks which have no connection with the figures 1, 2 and 3. For the foregoing reasons the petitioner's contentions in this behalf regarding the application of rule 116(c) have only to be repelled.

18. The next question that arises for consideration would be the effect of the abovesaid cross-marks found in Ex. P-7; whether they would invalidate Ex. P-7 on the ground of rule 116(1)(d) quoted above. This is a well contested question between the parties both on the question of law as well as on the question of fact. In the first instance, I shall refer to a few rulings relied upon by both sides The leading case on the subject reported in the Law of Parliamentary Elections, Appendix IV, *viz.*, *Woodward* v. *Sarsons and another*, lays down the following principles which were relied upon by both parties:—

> "A ballot paper which bears the voter's signature is void, and must be disallowed; so, also, must be disallowed a ballot paper which has the name of the candidate written by the voter instead of a cross opposite to the printed name of the candidate. The mere fact of two crosses being put, or of the cross being a peculiar form, or of there being another mark with the cross, or of there being a straight line instead of a cross, or of the cross being put on the left-hand side of the candidate's name instead of on the right-hand side, will not vitiate the ballot paper, and the same should not be rejected on that account, unless there be evidence of an arrangement that such peculiar marks were to be indications of identity."

Several instances of valid and invalid votes are given in that ruling. From a close scrutiny of the above quoted instances and the ruling as a whole, it is clear that such a cross-mark as found in Ex. P-7, unless there be evidence of an arrangement that such peculiar marks were to be indications of identity, they by themselves did not invalidate the ballot paper. Another ruling relied upon is *Sohanlal* v. *Abinash Chander* and others reported in Election Law Reports Vol IV, page 55. There the elector marking the ballot paper gave his first and the only preference in favour of the respondent by putting the figure "1" in the column provided for the purpose opposite the name of the respondent in that case, but he added a horizontal line "—" after "1". The Returning Officer rejected this ballot paper on the ground that from this mark the particular elector casting his vote could be identified. There was no evidence or suggestion that this mark "—" was put by any previous arrangement or understanding to identify the voter. It was held by the Election Tribunal that "the ballot paper was improperly rejected inasmuch as the horizontal line after the figure "1" was in no way material, and in any case, this was not a mark from which the voter could be identified and the chance of there being any arrangement between the voter and any candidate was excluded. A ballot paper is liable to be rejected in such cases only if, either the mark itself reasonably gives the indication of the voter, or there is some extrinsic evidence from which it can be inferred that the mark was placed by the voter by some arrangement." Here in this case the cross-marks in Ex. P-7 did not by themselves give any indication of the voter. No doubt the petitioner has tried to give some evidence regarding the question that the mark was made by the elector by pre-arrangement that the elector may afterwards be identified. That aspect and the evidence adduced by the petitioner I shall deal with separately. The learned counsel for the petitioner also relied upon Halsbury's Laws of England, third Edition, Vol. 14, pages 138 and 139 which paragraph also I shall quote below:—

> "As respects ballot papers which have names, initials, figures or other possible marks of identification on them by which it might be suggested that the voter could be identified, it has been said that the court should look at the paper and form its own opinion whether what is there has been put there by the voter for the purpose of indicating for whom he votes; if the voter has not voted in the proper way (if for example he has made two crosses or some other such marks which might have been intended for purposes of identification), but the court comes to the conclusion on looking at the

paper that the real thing that the voter has been doing is to try, badly or mistakenly, to give his vote, and make it clear for whom he voted, then these marks should not be considered to be marks of identification, unless there is positive evidence of some agreement to show that it was so; but where a ballot paper has got something clearly going beyond the intention to indicate for whom the voter voted then it is bad."

The learned counsel for the petitioner would contend that the cross-marks in Ex P-7 would clearly go beyond the intention to indicate for whom the voter voted and hence it is bad. I do not think that these cross-marks in Ex. P-7 go to that extent. Some such cases are enumerated in the above said ruling *Woodward* v. *Sarsons*. The cross-marks found in Ex. P-7 on the face of it do not by themselves give any such indication. As regards the other aspect it has been emphasised in the above-quoted portion that there should be positive evidence of some arrangement to show that it was a prearranged matter that those marks have been put so that the voter may be identified. The following rulings in A.I.R. 1924 Madras 766, 1925 Madras 614 and 1930 Madras 97 were also relied upon by the first respondent's counsel to indicate the proof required in this regard. It has been ruled in A.I.R. 1925 Madras 614 as follows:—

"The presence of writing other than the cross-mark would invalidate the vote only if it should be found that the writing is a mark by which the voter may be afterwards identified. (*Woodward* v. *Sarsons*, 10 C.P. 733 Rel. on). It must be either a mark which on the face of it shows or may show the person who has voted or with regard to which there is evidence on the record which shows that the mark was put in there by some pre-arrangement or conspiracy by reason whereof by looking at the mark one will be in a position to say that it is the vote of such and such a person. In other cases also if the intention that the voter should be identified could be gathered from the mere appearance of the writing, the vote will be rejected."

The other rulings quoted above are also to the same effect. In the light of the above rulings, I shall proceed to examine the case of the petitioner regarding this contention and the evidence adduced by him.

19. At the outset I may say that there is nothing in those cross-marks found in Ex. P-7 giving any intrinsic indication regarding the identity of the voter. From their very appearance nothing could be gathered pointing to any prearranged plan enabling identification of the voter afterwards. One could not import into these cross-marks the interpretation the petitioner wants unless the same is justified by evidence or by reliable circumstances. No doubt, it is open to the petitioner to prove the necessary elements or circumstances to bring these marks within the ambit of rule 116(1)(d) that these cross-marks have a design or purpose behind whereby the voter may afterwards be identified.

20. In the first instance, the pleadings of the petitioner in this behalf can be examined. They are contained in the latter part of para 18 and in paras 19, 20 and 21 of the petition. The petitioner states that the election was a keenly contested one, the first and third respondents being put up by the Indian National Congress Party while the second respondent was put up as the candidate of the Muslim League and officially supported by the Praja Socialist Party. The strength of the parties in the Legislative Assembly was such that the Congress, the P.S.P. and the Muslim League had just hardly the minimum number to return their three candidates *viz.*, respondents 1, 2 and 3 and thus everyone vote was material and decisive. He also states that consequent upon the formation of the Ministry there was rift in the parties of the United Front *viz.*, the Congress, the P.S.P., and the Muslim League. In this set up as a person belonging to the P.S.P. the petitioner's nomination was proposed and signed by a P.S.P. M.L.A. and the 6th respondent's nomination was signed by another P.S.P. M.L.A. That created a difficult situation for the leaders of the Congress, P.S.P. and the Muslim League which was further aggravated by the announcement of the Communist Party to support the petitioner in the election. After stating the circumstances under which the Rajya Sabha election was held, his specific pleadings regarding this aspect of the case are stated in the following sentences which can be quoted with advantage:—

"The said leaders apprehended that some of their M.L.As. might go against them in the election and they tried their best to bring them round under threat of disciplinary action or otherwise. In these circumstances it is quite probable that they have directed a dissenting and recalcitrant member who, according to them, would vote

for the petitioner to vote in a particular manner enabling verification and identification of the elector. It is submitted that the elector who has voted for the 2nd respondent marked "1 X" against his name has in all probability done so by arrangement with and on the direction of the leaders of his party and the 2nd respondent, with a view that at least the petitioner may not get his vote, which, they believed, the petitioner might otherwise get and the 2nd respondent may secure his vote."

The abovesaid being the pleadings in this regard, it was pointed out on behalf of the first respondent that the allegations are vague and indefinite. It has not been made clear in the pleadings which elector it was that was subjected to such a prearrangement, nor his party nor the leaders who were instrumental to such a prearrangement. The only person specifically disclosed who is a party to the alleged prearrangement is the 2nd respondent. It is not even made clear the party to which that voter belongs. From the evidence also this aspect has not been made clear. So the points requiring proof are the specific prearrangement set up and the identity of the voter should be linked with that prearrangement. Though direct reliable evidence may not be forthcoming, at least the circumstances proved should be such that the Tribunal can reasonably infer that the said elector or voter might in all probability have done the same under a specific prearrangement. Since there is no intrinsic indication in Ex- P-7 to that effect there must be extrinsic evidence proving these aspects. In the above light I think the pleadings are vague and indefinite.

21. Now I shall proceed to scan the evidence adduced by the petitioner to see whether he has succeeded in proving this aspect with regard to Ex. P-7. What PW 1 swears is as follows:—He, no doubt, swears that after the formation of the Ministry there arose serious rifts in the P.S.P. and that reflected in this election also. Mr. C. G. Janardanan proposed the petitioner against his party decision, and Mr. Joseph Chazhikadan another P.S.P. M.L.A: proposed the 6th respondent. But here it may be recalled that both of them are not examined. It is clear from the result that Mr. Chazhikadan though proposed or nominated the 6th respondent, he did not vote for him, for reasons best known to himself. Mr. C. G. Janardanan came forward with the statement referred to in Ex. P-12 that he will support the 2nd respondent. That statement is proved and admitted by the petitioner. Hence unless and until Mr. C. G. Janardanan is examined, the presumption is that he will abide by his statement. Nevertheless I shall consider the petitioner's evidence. The petitioner would also say that 2 or 3 other persons *viz.*, Messrs. Antony D'Cruz, E. P. Bapen etc. who also are P.S.P. M.L.As. also were recalcitrant members. But this is not based upon any reliable data or evidence. He also swears that on the basis of the alliance between the parties referred to above, there was a directive to the party M.L.As. to vote for their official candidates and if they did not obey the mandate, disciplinary action will be taken against them. Disciplinary action was taken against the petitioner and the communication is Ex. P-11. He further swears that at the time he filed his nomination paper, the Communist party had not given their support to him and they had their own candidates in respondents 4 and 5. He also swears that even his proposer Mr. C. G. Janardanan issued a statement in the Mathrubhoomi newspaper on 23rd March, 1960, just on the previous day of the election which is Ex. P-12, that he is going to abide by his party mandate and support the Muslim League candidate. He, however, swears that even after the said statement of Mr. C. G. Janardanan in Ex. P-12 he approached him for his support and then he told him that unless he issued that statement he will be dismissed from the Party and that the party leaders have no faith in him that he would vote for the official candidate and he was even asked to vote to their satisfaction, that is, in the manner convincing them that he voted for the official candidate. He would also swear that he contacted Mr. Antony D'Cruz also, another P.S.P. revolting M.L.A. He also adds that Mr. C. G. Janardanan's support to him was with the knowledge and concurrence of Mr. D'Cruz. He has been asked specifically what was the basis of his averment in para 21 which has been quoted above. His answer was that the persistent pressure exerted by the party leaders on these revolting members and the failure to succeed against one or two of the M.L.As. have made them direct the recalcitrant member to vote in a particular way at least to avoid a vote in his favour which he could otherwise get and also from his talks with those revolting members, he gathered the preponderance of such probability for a directive. So from his sworn testimony, he does not make it clear as to who was that particular member with whom there was prearrangement in the manner stated by him, if at all. From the petitioner's evidence it can only be inferred that it may be with Mr. C. G. Janardanan. As regards him only he says, that he had talks with him even after the statement Ex. P-12 and that he told him that he was even asked to vote to the satisfaction of the leaders. Though he mentions Mr. Antony D'Cruz also he does not swear

in terms as specific as Mr. C. G. Janardanan. The abovesaid facts he has sworn to in his testimony, had not been set forth in the pleadings. In the pleadings he has stated only about some probabilities and not so much concrete or specific facts, relating to the point at issue. The following question and answer in cross-examination being relevant, I shall quote below:—

> "As regards matters set forth in para 21 of your petition even now they remain in the region of probabilities and not certainty (Question). The circumstances and facts sworn to by me have established preponderance of probabilities pointing to a certainty. (Answer)."

Even in evidenmce this is all the case he has regarding this point. I do not think that he is correct in saying that the circumstances and facts he has sworn to would lead to the conclusion he wants to arrive at. According to me his evidence really remains in the region of probabilities only.

22. I shall now proceed to the other evidence also in the case regarding this aspect. Pw2, Mohamad Hussain, would also swear to the rift among the P.S.P. M.L.As. He was asked as to why M.L.A. Mr. C. G. Janardanan came forward with his statement mentioned in Ex. P-12 referred to above and he would swear that because Mr. Janardanan had nominated an independent candidate there was doubt whether he would vote for the Muslim League candidate and it was because of that that statement was insisted upon and that he and persons like him had requested him to do so. Since Pw 2 was not prepared to go any further in supporting the petitioner a specific question was asked whether the Muslim League leaders had asked the P.S.P. leaders any further specific thing regarding this matter. Then he said that the Muslim League leaders had only demanded that the Muslim League candidate must get all the votes of the P.S.P. and that the P.S.P. leaders must work for the same and that is all. However he does not swear to any pre-arrangement in the nature set forth in the pleadings so as to attract sub-rule (d) of rule 116. In chief examination he has sworn that formerly he was a member of the P.S.P. State Parliamentary Board and that he had contested in 1956 as an official candidate of the I.S.P. for the Lok Sabha election and got defeated. Regarding these aspects he had been cross-examined to show that at the relevant time he was not holding any responsible post in the P.S.P. and as such his interference in the matter is highly improbable. He admits that for the last two years he has not been holding any responsible office in the party. Hence it cannot be said that there is no force in the contention of the respondent and it appears doubtful whether Pw 2 had anything to do with the Rajya Sabha election in dispute since it was the M.L.As. and the top-ranking leaders of the Muslim League and the P.S.P. alone who were concerned with the same.

23. Pw 3 is the Returning Officer about whose evidence I have already dealt with Pw 4 only proves Ex. P-15 a paper report with certain comments regarding the instant election after the election and the declaration of the results of the election. He swears that he was not present at the counting and the comments which he has made are his own. In the circumstances Ex. P-15 is not of any help to the petitioner and the same was not relied upon at the time of arguments.

24. Pw 5 swears that he negotiated with the Communist Party on behalf of the petitioner and succeeded in getting their votes for him. He also swears that the Communist Party in supporting the petitioner wanted an assurance that the petitioner would be able to secure 3 or 4 votes from his own party M.L.As. without which he could not succeed even though the Communist party may give their full support. Pw 5 further swears that he was able to convince the Communist party leaders that the petitioner would be able to secure 3 or 4 votes from the P.S.P. M.L.As. besides the vote of the R.S.P. M.L.A. and the basis of such assurance was his talk with some M.L.As. like Messrs. P. K. Kunhu, C. G. Janardanan and some other M.L.As. of the P.S.P. whose names he was not able to remember. He also swears that he knows P.S.P. M.L.A. Mr. D'Cruz though he had not met him personally. Here it may be noted that what we are concerned with is Ex. P-7 and the intention behind the cross-marks in the same. His evidence is not of any help to the petitioner with regard to the specific contention regarding Ex. P-7 which is the relevant matter.

25. The next witness whose evidence was seriously relied upon by the petitioner is Pw 6. He is the Secretary of the Quilon District Committee of the Muslim League. He also swears that there was a rift in the P.S.P. and that M.L.As. Messrs. Joseph Chazhikadan, Koran D'Cruz and C. G. Janardanan were the revolting M.L.As. of the P.S.P. at the time of the Rajya Sabha election and hence the leaders of the Muslim League were anxious about the success of their official candidate, the second respondent. Hence he swears that himself and some other important workers of the Muslim League tried their best to avoid

such a contingency. Some of them met the P.S.P. leaders Mr. P. K. Kunhu and PW 2 and had a talk with them. At first they had their talks on the 15th or 16th of March. The abovesaid P.S.P. members then said that they are also trying their best and the result of their conversation could be known about 2 or 3 days before the elections. Then he says that he met Mr. P. K. Kunhu, PW 2, and another Majeed on the previous day of the election. What they told PW 6 at that time was that Mr. C. G. Janardanan had published a statement and hence they need not have any apprehensions about him. He was also told that there was some doubt about M.L.A. Mr. D'Cruz. PW 6 then said that such doubtful persons must vote with some indication. Then Mr. P. K. Kunhu and PW 2 told him that they had said so to the P.S.P. Secretary Mr. Sreedharan. This in short is the evidence he has given. He has been cross-examined only to show that he did not reveal about his talks with Mr. P. K. Kunhu and others to the petitioner and that Mr. Hussain referred to in his chief examination is PW 2. It would appear that his evidence is relied upon to indicate a prearrangement with M.L.A. Mr. D'Cruz. In the first place his evidence only shows that PW 6 suggested something to PW 2 and Mr. P. K. Kunhu and that they said that they had said so to P.S.P. Secretary. It may be noted here that there is no specific case for PW 6 regarding any particular manner in which the indication should be expressed in the ballot paper. The petitioner has no such specific case regarding Mr. D'Cruz in his pleadings. In his sworn testimony also he does not specifically swear anything about Mr. D'Cruz except that he was a revolting member of the P.S.P. His suggestion in his sworn testimony was that it may be Mr. C. G. Janardanan who might probably do this since he was asked by his party to vote to their satisfaction. Hence PW 6 was giving a new case which the petitioner was not having in the pleadings or in his sworn testimony. Further the nature of his evidence shows that it is of the nature of hearsay evidence. Nevertheless the petitioner's counsel pointed out that he wants to rely upon his evidence only to the extent that he suggested to Mr. P. K. Kunhu and PW 2 that the recalcitrant M.L.A. should vote with some indication. Here it may be recalled that not only that this is not found in the pleadings, the evidence of this witness stands uncorroborated by any other evidence. The basic fact that Mr. D'Cruz was a recalcitrant member is not reliably proved. The matter may be different regarding Mr. C. G. Janardanan and Mr. Joseph Chazhikadan against whom some over act is proved. But by the examination of PW 6, it appears that the suggested probability is that Mr. D'Cruz might be the person responsible for the cross-marks in Ex. P-7. That again shows that the petitioner has no consistent case. Mr. P. K. Kunhu has not been examined though he was put as a witness in the schedule. PW 2 does not swear to this. While PW 2 was in the box there was no suggestion put to him about his talk with PW 6. When he was specifically asked whether anything more happened in this line, he specifically stated nothing more and thus discountenanced the present case of PW 6. The above circumstances also improbabilises the veracity of the evidence of PW 6. Further PW 2 the Muslim League President swears that it was he who had talks with the P.S.P. leaders regarding this matter. PW 2 specifically swears that it was only about 2 years ago that PW 6 came in to the Muslim League and before that he was a Congressman for 20 years and after he came over to the Muslim League he had not been entrusted with any responsible jobs of the kind he has sworn to, by the Muslim League. For the foregoing reasons his evidence is unreliable and cannot be acted upon even to the extent he has sworn to. On the whole it is clear that the evidence adduced by the petitioner in this regard is shabby and discrepant and it cannot be acted upon. In the pleadings he did not set forth his case specifically as it ought to have been and he was improving upon his case at every stage of the evidence. Mr. C. G. Janardanan accepted the summons and did not appear in court. Hence warrant was ordered. Then he appeared and filed a petition for recalling the warrant agreeing that he would appear on the next adjourned date. But he did not appear in pursuance of his undertaking. The petitioner gave him up and did not press for his examination. Mr. A. Sreedharan who is stated to be the Secretary of the P.S.P. though appeared in court, in pursuance of the summons, was given up by the petitioner. Mr. P. K. Kunhu though was cited was subsequently given up. The Chairman of the P.S.P. also was put in the witness schedule, but his examination was not pressed nor was summons applied for. So the important witnesses who could have given evidence if there was any such pre-arrangement were not examined. The nature of the evidence given by the witnesses examined I have already dealt with. The evidence given by the petitioner is not capable of showing that the cross-marks Ex. P-7 have been put in pursuance to any pre-arrangement coming within the scope of rule 116(1)(d).

26. However the first respondent also has examined two witnesses as RW 1 and RW 2 by way of counter evidence. RW 1 is the 2nd respondent. No doubt there is specific allegation in the pleadings that it was at his instance also that the

cross-mark "X" had been put in Ex. P-7, so that the voter may afterwards be identified. He has gone into the box and denied the allegation against him. Referring to paras 19 to 21 of the petition and specifically regarding the allegation against him, he has sworn that they are false. He has also sworn that there was no such arrangement as stated in the petition. He has also sworn that to his knowledge no member of his party or any member of the P.S.P. has entered into any such arrangement as stated in the petition. Though he has been cross-examined at length, I think nothing has been brought out to disbelieve him. He has impressed me as a witness of truth. One aspect which has been brought out in his cross-examination was that he himself has not specifically put forward any written objection to the election petition though he had entered appearance. He has explained in re-examination that no relief has been sought for against him in the petition. However he entered appearance and his advocate has filed a statement adopting the contentions of the first respondent and thus practically repudiated all the allegations of the petitioner which were taken against him. He is an elected Member of Parliament and there is nothing to discredit him. RW 2 is the President of the Kerala State Muslim Leage. He swears that it was he in his capacity as the President of the Muslim League and his co-workers selected the 2nd reapondent as the official candidate of the Muslim League for the Rajya Sabha election. He further swears that it was he who negotiated with the P.S.P. and the Congress officially on behalf of the Muslim League in the said Rajya Sabha election. He further swears that himself and his partymen had no such anxiety as has been put forward by the petitioner in the election of the 2nd respondent. He also swears that neither he nor his party members had any talk with PW 2 regarding the matter. He has specifically sworn that neither himself nor his party had over suggested to the P.S.P. that any of the P.S.P. M.L.As. should vote with any special or specific indication so that their ballot papers may be identified later on. There was no need also for such things. He also is a respectable man who has paid income-tax last year to the tune of Rs. 11,000 and pays basic tax to the extent of Rs. 1,800 a year. In his cross-examination also I think nothing has been brought out to disbelieve him. In the face of the reliable evidence of RW 1 and RW 2, I think the vague and ind-finite evidence adduced by the petitioner cannot be acted upon, to come to a conclusion that the cross-marks in Ex. P-7 might have been put by any elector under any previous arrangement that he might be identified later on. On an anxious consideration of the entire evidence and circumstances I am constrained to hold that the petitioner has failed to prove that Ex. P-7 is invalid on any of the grounds set forth by him in his petition. I therefore hold that the Returning Officer has not improperly rejected any valid vote or improperly accepted any invalid vote (issue No. 8). I further hold that the Returning Officer rightly rejected Ex. P-8 as invalid and rightly accepted Ex. P-7 as valid and no interference is called for in the declaration of the Returning Officer. Issues 4 to 8 are therefore found against the petitioner and in favour of the contesting respondent.

27. *Issues 9 and* 10.—It follows from the findings recorded above that the election of the first respondent is not liable to be declared void and the petitioner is not entitled to be declared elected. Though in the pleadings there is a contention raised that even the calculation made by the Returning Officer regarding the transfer of surplus and second vote is erroneous, that contention was not pressed at the time of arguments. The petitioner in his sworn testimony also did not swear to this aspect. It was conceded at the time of arguments that if the decisions of the Returning Officer regarding Exs. P-7 and P-8 are not disturbed, the declaration in favour of the first respondent by the Returning Officer is correct and does not call for interference. I therefore find issue No. 9 in favour of the first respondent. It follows therefore that the petitioner is not entitled to any relief. Hence issues 9 and 10 are found against the petitioner.

28. Regarding costs, as a general rule, costs must follow the event. But I think in the particular circumstances of this case, the parties should be directed to bear their costs. It appears that the election was a keenly contested one and the validity or otherwise of one vote, either Ex. P-7 or Ex. P-8, against the decision of the Returning Officer, would alter the result of the elections. In these circumstances I think, though the first respondent succeeds I do not think it is a fit case to direct the petitioner to pay the costs of the first respondent. It is also seen that though the petitioner failed to substantiate his averments, it cannot be said that the petition is unjustified or unreasonable. Further at the time of arguments the question of costs was not pressed also on behalf of the first respondent For the foregoing reasons I held that it would be just and proper to direct the parties to suffer their costs.

In the result, the petition fails and it is dismissed. But, in the particular circumstances of this case, the parties will bear their costs.

Declared in open court, this the 28th of February, 1961.

C. M. MATHEW,
Member, Election Tribunal.

APPENDIX.

Petitioner's Exhibits

P-1 Extraordinary Gazette containing list of contesting candidates for election to the Council of States, 1960, and Notification No. 116/LA 4/60, dated the 10th March, 1960.

P-2 List of elected members of Kerala Legislative Assembly.

P-3 Nomination Paper of Petitioner (K. Sadanandan), dated 3rd March, 1960, by Proposer C. G. Janardanan.

P-4 Nomination Paper of Ephraim Muamby, dated 26th February, 1960, by Proposer Joseph Chazhicattu.

P-5 Copy of directions to electors.

P-6 Decision of the Returning Officer regarding the validity of two ballot papers (Exs. P-7 and P-8) in the election to the Council of States—24th March, 1960.

P-7 Ballot Paper accepted as valid by the Returning Officer and containing the marks "1 X", "2 X", "3 X".

P-8 Ballot Paper rejected by the Returning Officer.

P-9 Result Sheet prepared by the Returning Officer.

P-10 Return of Election.

P-11 Suspension Order of Petitioner from the P.S.P. dated 28th April, 1960.

P-12 Statement of C. G. Janardanan, M.L.A. in the Daily Newspaper Mathrubhoomi, dated 23rd March, 1960.

P-13 Statement in daily newspaper Janayugam dated 28th February, 1960.

P-14 Statement in daily newspaper Malayala Rajyam dated 24th March, 1960.

P-15 Publication in the Mathrubhoomi daily dated 29th March, 1960.

Petitioner's Witnesses

(1) Sadanandan (Petitioner).
(2) M. A. Hussain.
(3) Thirumala Ayyangar.
(4) Parameswaran.
(5) V. Gangadharan.
(6) K. S. Thangal.

Respondent's Exhibits.—NIL.

Respondent's Witnesses

(1) Ebrahim Sulaiman Sait (2nd Respondent).
(2) Saith Abdul Rahiman Bafakki Thangal.

C. M. MATHEW,
Member, Election Tribunal.

[No. 82/14/60.]

By Order,
K. S RAJAGOPALAN,
Under Secy.

New Delhi, the 23rd March 1961

S.O. 673.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Rajasthan, hereby re-nominates Shri G. K. Bhanot, I.A.S., as the Chief Electoral Officer for the State of Rajasthan with effect from the 20th March, 1961, and until further orders.

[No. 154/12/61.]

By order,

PRAKASH NARAIN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 22nd March 1961

S.O 674.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, and of all other powers enabling him in this behalf, the President, with the consent of the Government of Assam, hereby entrusts also to the Superintendents of Police and the Deputy Commissioners (in charge of Police) under the Government of Assam within their respective jurisdictions the functions of the Central Government in making orders of the nature specified in clauses (c) and (cc) of sub-section (2) of section 3 of the Foreigners Act, 1946 (31 of 1946), subject to the following conditions, namely:—

(a) that the functions so entrusted shall be exercised in respect of nationals of Pakistan;

(b) that in the exercise of such functions the said Superintendents of Police and Deputy Commissioners (in charge of Police) shall comply with such general or special directions as the Central Government may from time to time issue; and

(c) that notwithstanding this entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

[No. 1/7/61-F.III.]

FATEH SINGH, Jt. Secy.

New Delhi, the 24th March 1961

S.O. 675.—In pursuance of clause (1) of article 239 of the Constitution and in supersession of the notifications of the Government of India—

(i) in the *late* Department of Labour No. LR-1(9), dated the 28th June 1947, and

(ii) in the *late* Ministry of States No. 104-J, dated the 24th August 1960 [in so far as it relates to exercise of powers and discharge of functions under the Industrial Disputes Act, 1947 (14 of 1947)],

the President hereby directs that the powers and functions of the State Government under the Industrial Disputes Act, 1947 (14 of 1947), except in so far as they relate to any industrial dispute concerning the Employees' State Insurance Corporation and except those under section 38 of the said Act, shall, subject to the control of the President, and until further orders, be respectively exercised and discharged by the Lieutenant Governor or the Chief Commissioner, as the case may be of each of the Union territories of Delhi, Himachal Pradesh, Manipur, Tripura and the Andaman and Nicobar Islands, within his jurisdiction

[No. F. 2/2/61-J.II.]

K. R. PRABHU, Dy. Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 22nd March 1961

S.O. 676.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President is pleased to make the following amendment in the Delegation of Financial Powers Rules, 1958

(published as S.O. 2614 in the Gazette of India, dated the 20th December, 1958), namely:—

Amendment No. 90

I. The existing entry in column 4 against item No. 13 of the Annexure to Schedule V may be substituted by the following:—

"The expenditure shall be incurred in accordance with the '*Rules for the payment of Municipal Rates and Taxes on Buildings*' contained in the Appendix."

II. The following may be inserted as an 'Appendix' after Schedule VII:—

"APPENDIX

(*See* Annexure to Schedule V, item 13)

Rules for the payment of Municipal Rates and Taxes on Buildings

The following rules shall govern the payment of municipal taxes on buildings in the occupation of Departments of the Central Government or of Government servants under the administrative control of that Government.

I. *Taxes on buildings other than residential buildings*

(1) If the building is in the occupation of a single Department, the taxes shall be paid by that Department.

(2) If the building is in the occupation of more than one Department, or if the taxes are payable in a lump sum for a number of buildings in a municipal area, the taxes may be paid, in the first instance, by any one Department nominated in this behalf by Government. When one of the several Departments occupying a building or buildings assessed to lump sum taxes is either the Defence Department or a Commercial Department, a portion of the taxes calculated *pro rata*, in proportion to the accommodation actually occupied by each of the several Departments, should be passed on to the Defence or the Commercial Department concerned. The balance thereafter remaining, if it relates to a single non-commercial Department occupying the rest of the building, shall be passed on to that Department, if it relates to more than one non-commercial Department, it shall not be passed on.

NOTE 1.—Before payment is made by a Department which is not in occupation of the entire building concerned or, if payment cannot be delayed, as soon after payment as possible, an acceptance shall be obtained from every Department which is in occupation of any portion of it.

NOTE 2.—No municipal taxes are payable on public buildings situated in cantonments.

II. *Taxes on buildings occupied as residences*

(1) Except as provided in the note below this rule, taxes which are by local rule or custom, ordinarily leviable from tenants shall be paid, in respect of the term of his occupancy, by the occupant of the building, even though he be entitled to rent free quarters.

NOTE.—If in any case it has been decided by competent authority that the whole or any portion of the taxes should be borne by Government and not by the occupant of the building, the whole tax shall be paid in the first instance by the Department in administrative control of the building, and the portion, if any payable by the occupant shall then be recovered from him.

(2) Taxes which are, by local rule or custom, not leviable from tenants shall be paid by the Department in administrative control of the building, the portion representing taxes in the nature of property or house tax being treated as part of the cost of maintenance of such building, the rest, if any, being recovered from the occupants concerned.

III. *Method of payment*

Municipal taxes payable by Government on Government buildings shall be paid by book adjustment or in cash according as the municipalities concerned do or do not bank with a Government treasury.

IV. *Certificate to accompany payment*

(1) Charges for municipal taxes in respect of buildings which are borne on the books of the Public Works Department shall be supported by a certificate from the Public Works Divisional Officer concerned in which he will state either that he accepts the assessment or, if he considers any assessment to be excessive, that all means have been or are being taken to secure its reduction. In respect of other Government buildings, the certificate shall be given by the departmental officer concerned.

(2) If an assessement appears to be excessive, proceedings shall be taken to obtain redress under the ordinary Municipal Law.

Recourse to the special provisions of Act XI of 1881 may, however, be had when it has been found impossible to effect an amicable, though possibly arbitrary, settlement with the local authority of a case in which the property to be assessed is, from its nature, such as not to admit of the application of ordinary principles in assessing the payment thereon of any particular tax. An example would be a case in which, whereas the assessment should be on the letting value, the property is of such a nature that it is difficult to conceive of its being let or impossible to form an estimate of the rent which would be obtained if Government offered to let it."

[No. F. 12(135)-EII(A)/59.]

C. R. KRISHNAMURTHI, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 21st March 1961

S.O. 677.—In pursuance of clause (b) of sub-section (1) of ection 21 of the State Bank of India Act, 1955 (23 of 1955), read with Regulation 48 and clause (b) of sub-regulation (1) of Regulation 50 of the State Bank of India General Regulations 1955, the Central Government, in consultation with the Reserve Bank of India, has nominated Mr. E. F. G. Hunter, "Hornton", Cathedral Road, Madras 6, as a member of the Madras Local Board with effect from the 22nd March, 1961 in the vacancy caused by the resignation of Mr. E. J. M. Leigh.

[No. 8/23/61-SB.]

New Delhi, the 23rd March 1961

S.O. 678.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-clause (i) of clause (c) of sub-section (1) of section 10 of the said Act shall not apply to the United Bank of India Ltd., till the end of March 1963, in so far as the said provisions prohibit its Managing Director, Shri B. K. Dutt, from being a director of the Industrial Credit and Investment Corporation of India Ltd.

[No. F. 4(51)-BC/61.]

R. K. SESHADRI, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 23rd March, 1961

S.O. 679.—Statement of the Affairs of the Reserve Bank of India, as on the 17th March, 1961.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	19,88,54,000
Reserve Fund	80,00,00,000	Rupee Coin	2,53,000
National Agricultural Credit (Long-term Operations) Fund	40,00,00,000	Subsidiary Coin	5,89,000
National Agricultural Credit (Stabilisation) Fund	5,00,00,000	Bills Purchased and Discounted:—	
Deposits :—		(a) Internal	.
(a) Government		(b) External	..
(1) Central Government	72,69,68,000	(c) Government Treasury Bills	38,73,19,000
(2) Other Governments	18,11,53,000	Balances held abroad*	32,18,77,000
(b) Banks	71,75,92,000	Loans and Advances to Governments**	50,99,57,000
(c) Others	90,09,78,000	Other Loans and Advances †	168,80,56,000
Bills Payable	29,76,78,000	Investments	130,72,07,000
Other Liabilities	43,42,26,000	Other Assets	19,44,83,000
TOTAL	460,85,95,000	TOTAL	460,85,95,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

† The item 'Other Loans and Advances' includes Rs. 35,28,00,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

Dated the 22nd day of March 1961.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 17th day of March, 1961.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department .	19,88,54,000		A. Gold Coin and Bullion:—		
Notes in circulation . . .	19,71,96,91,000		(a) Held in India . . .	117,76,03,000	
Total Note issued . . .		19,91,85,45,000	(b) Held outside India . .	..	
			Foreign Securities . . .	128,00,89,000	
			TOTAL OF A .		245,76,92,000
			B. Rupee Coin		118,86,52,000
			Government of India Rupee Securities		16,27,22,01,000
			Internal Bills of Exchange and other commercial paper . . .		..
TOTAL LIABILITIES . .		19,91,85,45,000	TOTAL ASSETS . .		19,91,85,45,000

Dated the 22nd day of March 1961.

B. VENKATAPPIAH,
Dy. Governor.

[No. F. 3(2)-BC/61.]

A. BAKSI, Jt. Secy.

OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE AND LAND CUSTOMS, VAPI

NOTICES

Vapi, the 18th March 1961

S.O. 680.—Whereas it appears that the below-mentioned unclaimed goods which were seized by the Central Excise Staff on 15th December, 1960 near Kolak Naka were imported from Daman by land by an unauthorised route in contravention of section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industry Imports (Control) Order No. 17/55 of 7th December, 1955 as amended and issued under Section 3 and 4A of the Imports and Exports (Control) Act, 1947 and deemed to have been issued under section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs Bombay Division III, Central Excise Building, Queen's Road, Opposite Churchgate Station, Bombay why the below mentioned goods should not be confiscated under Section 5(3) of the Land Customs Act, 1924 and Section 167(8) of the Sea Customs Act, 1878 read with Section 3(2) of the Imports and Exports (Control) Act, 1947 and why a penalty should not be imposed on him under Section 7(1)(c) of the Land Customs Act, 1924 read with section 167(8) of the Sea Customs Act 1878.

3. If such an owner fails to turn up to claim the ownership of the below mentioned goods or to show cause against the action proposed to be taken within 30 days from the date of the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed property and the case will be decided accordingly, by the Assistant Collector of Central Excise and Land Customs, Bombay III Division.

Description	Quantity	Value
Two takas of Boskl silk made in China	2 Takas	1000·00
Old white shirt	1	2·00
Old Shawl	1	2·00
Bags	2	0·25
		1004·25

[No. VIII(b)15-282/60.]

S.O. 681.—Whereas it appears that the below-mentioned unclaimed goods which were seized by the Central Excise staff on 27th January, 1961, between Chowkey No. 15 and 16 were imported from Daman by land by an unauthorised route in contravention of section 5(1) of the Land Customs Act, 1924 and the Government of India, Ministry of Commerce and Industry Imports (Control) Order No. 17/55 of 7th December, 1955, as amended and issued under sections 3 and 4A of the Imports and Exports (Control) Act, 1947 and deemed to have been issued under section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs Bombay III, Central Excise Building, Queen's Road, Churchgate Station Bombay why the below mentioned goods should not be confiscated under section 5(3) of the Land Customs Act, 1924 and section 167(8) of the Sea Customs Act, 1878 read with section 3(2) of the Imports and Exports (Control) Act, 1947 and why a penalty should not be imposed on him under section 7(1)(c) of the Land Customs Act, 1924 read with section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the ownership of the below mentioned goods or to show cause against the action proposed to be taken within 30 days from the date of the publication of this notice in the Government of India Gazette, the goods in question will be treated as unclaimed property and the

case will be decided accordingly, by the Assistant Collector of Central Excise and Land Customs Bombay III Division.

Description	Quantity	Value
Khaki bag containing Imco Triplex Six stars Mechanical Lighters (Made in Austria)	576 Nos.	2304·00

[No. VIII(b)15-22/61.]

SHOW CAUSE NOTICE

Vapi, the 18th March 1961

S.O. 682.—Whereas it appears that the below-mentioned unclaimed goods which were seized by the S.R.P. Staff on 25th February, 1961, near Balitha Village were imported from Daman by an unauthorised route by land without a permit as required under section 5(1) of the Land Customs Act, 1924 and without a licence as required by the Government of India, Ministry of Commerce and Industry Imports (Control) Order No. 17/55 of 7th December, 1955 as amended and issued under section 3 and 4A of the Imports and Exports (Control) Act, 1947 and deemed to have been issued under section 19 of the Sea Customs Act, 1878.

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise and Land Customs, Bombay Division III, Central Excise Building, Queen's Road, opposite Churchgate Station Bombay, why the below-mentioned goods should not be confiscated under section 5(3) of the Land Customs Act, 1924 and section 167(8) of the Sea Customs Act, 1878 read with section 3(2) of the Imports and Exports (Control) Act, 1947, and why a penalty should not be imposed on him under section 7(1)(c) of the Land Customs Act, 1924 read with section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the ownership of the below-mentioned goods or to show cause against the action proposed to be taken within 30 (thirty) days from the date of the publication of this notice, in the Government of India, Gazette, the goods in question will be treated as unclaimed property and the case will be decided accordingly, by the Assistant Collector of Central Excise and Land Customs, Bombay Division III.

Description	Quantity	Value
"Castle Premier, 17 jewels, Swiss Made Stainless steel back, Antimagnetic, Water proof, Roldgold frame, No. 14624 wrist watches . . .	30 Nos.	3750·00

[No. VIII(b)15-38/61.]

K. M. SHAH,
Superintendent.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, POONA

Poona, the 23rd February 1961

S.O. 683.—In exercise of the powers conferred upon me under Rule 233 of the Central Excise Rules, 1944, I hereby issue the following instructions:—

"Warehouse licensees seeking extensions of the three years time limit laid down in Rule 145 of the Central Excise Rules, 1944 for retention of excisable goods in bond, should submit their applications for such extension at least three months before the expiry of the time limit, failing which the applications would be liable to be rejected."

[No. V(a)22-5/T/60.]

[No. CER/2/61.]

B. D. DESHMUKH, Collector.

OFFICE OF THE COLLECTOR OF CUSTOMS AND CENTRAL EXCISE, PONDICHERRY

CORRIGENDUM

SUB.—*Central Excise Finance Bill 1961—Imposition of Central Excise duty on certain articles.*

S.O. 684.—Please read as 25% *ad valorem* instead of 20% *ad valorem* under column 4 against tariff item No. 14 F of this office Public Notice No. 5/61, dated the 1st March, 1961.

[No. C. IV/4/1/61.]

A. J. B. LOBO, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, DELHI

CENTRAL EXCISES

New Delhi, the 20th March 1961

S.O. 685.—In exercise of the power conferred on me under Rule 5 of the Central Excise Rules, 1944, I empower the officers of Central Excise Collectorate, Delhi, specified in column 6 of the annexed Table to exercise within their respective jurisdiction the Power of "Collector" under the Rules enumerated in columns 3, 4 & 5 of the said table.

The overall discretionary powers conferred on me under Rule 96MMMM, 96U and 92F *ibid* shall not be exercised by any subordinate officer.

TABLE

Sl. No.	Nature of the Powers conferred	Rule number			Collectors delegated Powers to
		Power-looms	V.N.E. OILS	Khand-sari	
1	2	3	4	5	6
1	To accept first A.S.P. application for full period for which special procedure can be availed of.	96-I(1)	96-O(1)	92-A(1)	Superintendent.
2	To accept first A.S.P. application for a period less than the prescribed period.	96-I(2)	96-O(2)	92-A(2)	(i) The Assistant Collector in respect of rule 96-I(2). (ii) Superintendent in respect of rules 96-O (2) and 92-A (2).
3	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to avail of such procedure during the period for which permission has been granted to him.	96-I(3)	96-O(3)	92-A(3)	Assistant Collector.
4	(a) To accept renewal applications in for A.S.P.	96-I(4)	96-O(4)	92-A(4)	Superintendent.
	(b) To condone delay in submission of A.S.P. application for renewal.	Do.	Do.	Do.	(i) Superintendent for condoning delay not exceeding 15 days. (ii) Assistant Collector for condoning delays exceeding 15 days.

1	2	3	4	5	6
5	To condone delay in submission of application for renewal in forms A.R. 6, A.R. 7 & A.R. 8 and to condone delays in making weekly/monthly deposits.	96-K(2)	96-Q(2)	96-C(2)	(a) Superintendent for condoning delay not exceeding (i) 2 days in case of weekly applications and weekly deposits and (ii) 5 days in the case of monthly application and monthly deposits. (b) Assistant Collector if the delay exceeds the limits under (a) above.
6	To impose following penalties for misdeclaration etc.				
	(i) to demand duty at full rate,	96-M(i)	96-S(i)	92-E(i)	Assistant Collector
	(ii) to confiscate goods,	96-M(ii)	96-S(ii)	92-E(ii)	Adjudicating officers in accordance with their normal limits of powers.
	(iii) to impose penalty not exceeding Rs. 2000/-	96-M(iii)	96-S(iv)	92-E(iv)	
	(iv) to debar a manufacturer, from availing of special procedure.	(No. provision)	96-S(iii)	92-E(iii)	Assistant Collector.
7	To exercise the overall discretionary Power to extend special procedure to a manufacturer who has failed to avail of it, or to comply with any Conditions, laid in rules.	96-MMMM	96-U	92-F	Not to be exercised by any officer subordinate to Collector.

[No. C. IV(8)2/60.]

K. NARASIMHAN, Collector.

BOMBAY CENTRAL EXCISE COLLECTORATE

CENTRAL EXCISES

Bombay, the 21st March 1961

S.O. 686.—In exercise of the powers conferred upon me under Rule 5 of the Central Excise Rules, 1944, and in supersession of all previous notifications in so far as they relate to delegation of powers to subordinate officers under the rules specified in column 1 of the Table below, I hereby delegate the powers vested in me under the said rules to the Central Excise Officers mentioned against them in column 2, subject to the limitations stated in column 3 of the said Table.

TABLE

Rule	Rank of Officers—All Officers not below the rank of—	Nature of Power and Limitation.
1	2	3
96 I (1)	Superintendent	To accept first application in form A.S.P. for full period for which special procedure can be availed of.
96 I (2)	Assistant Collector	To accept first application in form A.S.P. for a period less than the prescribed period.

1	2	3
96 I (3)	Assistant Collector . . .	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to avail of such procedure during the period for which permission has been granted to him.
95 I (4)	Superintendent . . .	(*i*) To accept renewal application in form A.S.P.
		(*ii*) To condone delays not exceeding 15 days in submission of A. S. P. application for renewal.
	Assistant Collector . . .	To condone delays exceeding 15 days submission of A.S.P. application for renewal.
96 K (2)	Superintendent . . .	To condone delays not exceeding 5 days in submission of application for renewal in form A.R. 6 and in making the monthly deposit.
	Assistant Collector . . .	To condone delays exceeding the limit stated above.

[No. CER/5/1 (Powerlooms)/61.]

G. KORUTHU, Collector.

CENTRAL EXCISE COLLECTORATE, HYDERABAD DN.

CENTRAL EXCISES

Hyderabad, the 20th March 1961

S.O. 687—In exercise of the powers conferred upon me by rule 5 of the Central Excise Rules, 1944 and in supersession of all the previous delegations issued under the following Central Excise Rules 1944, I authorise the officers mentioned in column 6 of the table given below to exercise within their respective jurisdictions the powers of Collector under the Rule mentioned in Columns 3/4/5 of the Table, subject to the limitations, if any, shown in column 6 thereof:—

Sl. No.	Nature of power conferred on collector	Central Excise Rule Number			Collectors powers delegated to officers not below the rank of
		Power looms	Vegetable Non-essential Oils	Khandsari Sugar	
(1)	(2)	(3)	(4)	(5)	(6)
1.	To accept first ASP Application for full period for which special procedure can be availed of.	96 I(1)	96 O(1)	92 A(1)	Superintendent.
2.	To accept first ASP application for a period less than the prescribed period.	96 I(2)	96 O(2)	92 A(2)	(i) Assistant Collector in respect of rule 96 I(2). (ii) Superintendent in respect of rules 96 O(2) and 92 A(2).

(1)	(2)	(3)	(4)	(5)	(6)
3.	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to avail of such procedure during the period for which permission has been granted to him.	96 I(3)	96 O(3)	92 A(3)	Assistant Collector.
4.	(a) To accept renewal applications in form A.S.P.	96 I(4)	960O(4)	92 A(4)	Superintendent.
	(b) to condone delay in submission of A.S.P. application for renewal.	Do.	Do.	Do.	(i) Superintendent for condoning delays not exceeding 15 days. (ii) Assistant Collector for condoning delays exceedings 15 days.
5.	To condone delay in submission of application for removal in forms AR. 6, AR. 7, and AR 8, and to condone delays in making weekly/monthly deposits.	96 K(2)	96 Q(2)	92 O(2)	(a) Superintendent for condoning delay not exceeding (i) 2 days in the case of weekly applications and weekly deposits and (ii) 5 days in the case of monthly applications and monthly deposits (b) Assistant Collector if the delay exceeds the limits under (a) above.
6.	To impose following penalties for mis-declaration etc.,				
	(i) to demand duty at full rate	96 M(i)	96 S(i)	92 E(i)	Assistant Collector.
	(ii) to confiscate goods .	96 M(ii)	96 S(ii)	92 E(ii)	Adjudicating officers in accordance with their normal limits of powers.
	(iii) to impose penalty not exceeding Rs. 2,000 .	96 M(iii)	96 S(iv)	92 E(iv)	
	(iv) to debare a manufacturer from availing of special procedure.	(No provision)	96 S(iii)	92 E(iii)	Assistant Collector.

[No. 3/61.]

B. SEN, Collector.

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 15th March 1961

S.O. 688.—In exercise of the powers conferred by sub-section (3) of section 1 of the Standards of Weights and Measures Act, 1956 (89 of 1956), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Commerce and Industry No. S.O. 1898, dated the 1st August, 1960, namely:—

In the said notification, in item (1), for the words "Inland and wharves", the words "Inland Vessels wharves" shall be substituted.

[No. SMC-15(35)/60.]

K. V. VENKATACHALAM, Jt. Secy.

New Delhi, the 21st March 1961

S.O. 689.—In pursuance of the previous of Rule 9 of the Indian Power Alcohol Rules, 1950 the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1601, dated the 17th September, 1952, namely:—

In the said Notification as amended in this Ministry's Notification No. S.O. 2693, dated the 7th November, 1960, 'for the figures, words and brackets "19 nP. (Naye Paise nineteen only) per litre", the words, figures and brackets "Rs. 19·25 (Rupees Nineteen and Naye Paise twenty-five only) per hectolitre (100 litres)" shall be substituted.'

[No. 34(6)/60-Ch. II.]

G. L. MEHTA, Dy. Secy.

CORRIGENDUM

New Delhi, the 27th March 1961

S.O. 690.—In the Ministry of Commerce & Industry Order No. 1809 dated the 18th July, 1960, published in Part II Section 3 sub-section (ii) of the Gazette of India dated the 23rd July, 1960, the following corrections may be made:—

1. *For*	13D.	Mr. T. Korner, M/s East Asiatic Co. (India) Ltd., Mercantile Bank Bldg., P.B. No. 146, Madras.	"Technical] Knowledge"	Member
Read	13D.	Mr. F. Korner, M/s East Asiatic Co. (India) Ltd., Mercantile Bank Bldg., P. B. No. 146, Madras.	Do.	Do.
2. *For*	13D.	Shri M. L. Sahoo, M/s Asiatic Soap Co. Ltd., 8, Dalhousie Square, Calcutta.	Do.	Do.
Read	13E.	Shri M. L. Sahoo, Soap & Glycerine Factory, M/s Bharat Starch & Chemicals Ltd., P.O. Yamunanagar, Distt. Ambala (Panjab).	Do.	Do.

[No. 4(8)IA(IV)/60.]

J. S. BAKHSHI, Under Secy.

TEA CONTROL

New Delhi, the 22nd March 1961

S.O. 691.—In exercise of the powers conferred by section 4 of the Tea Act, 1953 (No. 29 of 1953) read with sub-rule (3) of rule 4 and sub-rule (1) of rule 5 of the Tea Rules, 1954, the Cent al Government hereby appoints the Secretary to Government, Department of Industries, Labour and Cooperation, Government of Madras as *ex-officio* member of the Tea Board and makes the following further amendment in the notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 944, dated the 17th March, 1954, namely:—

In the said notification, in the category of members representing the Governments of the principal tea growing States, for the entry "5. The Deputy Secretary to Government, Department of Industries, Labour and Cooperation, Government of Madras, Madras (*ex-officio*)", the following entry shall be substituted, namely:—

"5. The Secretary to Government, Department of Industries, Labour and Cooperation, Government of Madras, Madras-9 (*ex-officio*)."

[No. 7(11)Plant(A)/59.]

B. KRISHNAMURTHY, Under Secy.

ORDER

EXPORT TRADE CONTROL

New Delhi, the 1st April 1961

S.O. 692.—In exercise of the powers conferred by Sections 3 and 4A of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendment in the Exports (Control) Order, 1958, namely:—

In Schedule IV to the said Order, the entries under "O.G.L. No. 2" shall be omitted.

[No. Export (1)/AM(41).]

M. H. SIDDIQI, Under Secy.

(Department of Company Law Administration)

New Delhi, the 20th January 1961

S.O. 693.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 448 of the Companies Act, 1956 (I of 1956), the Central Government hereby appoints Shri H. K. Ganguli to be the Official Liquidator, High Court Calcutta with effect from the 16th March, 1961 (forenoon) *vice* Shri Robi Goho.

[No. PFG(119)-CLA/61.]

P. B. SAHARYA, Under Secy.

(Office of the Deputy Chief Controller of Imports and Exports)

(Central Licensing Area)

NOTICE

New Delhi, the 20th January 1961

S.O. 694.—It is hereby notified, that in exercise of the powers conferred by clause-9 of the Imports (Control) Order, 1955, the Government of India, in the Ministry of Commerce and Industry propose to cancel the import Licence No. A754591|60|AU|CCI|D, dated the 29th November, 1960, valued at Rs. 330 for import of Polystyrene from Soft Currency Area except Union of South Africa and South West Africa, granted by the Deputy Chief Controller of Imports & Exports, (Central Licensing Area), New Delhi to M/s. Gulzari Lal & Brothers, 33, Khurshid Market, Sadar Bazar, Delhi, unless sufficient cause against this is furnished to the Deputy Chief Controller of Imports & Exports (Central Licensing Area), New Delhi, within ten days of the date of issue of this notice by the said M/s. Gulzari Lal & Brothers, 33, Khurshid Market, Sadar Bazar, Delhi, or any Bank, or any other party, who may be interested in it.

2. In view of what is stated above, M/s. Gulzari Lal & Brothers, 33, Khurshid Market, Sadar Bazar, Delhi, or any Bank, or any other party, who may be interested in the said licence No. A754591|60|AU|CCI|D, dated the 29th November, 1960, are hereby directed not to enter into any commitments against the said licence and return the same immediately to the Deputy Chief Controller of Imports & Exports (Central Licensing Area), Janpath Barracks 'B', New Delhi-1.

[No. Genl|86|1-61|POL|CLA.]

RAM MURTI SHARMA,

Dy. Chief Controller of Imports & Exports.

MINISTRY OF FOOD & AGRICULTURE

(Department of Agriculture)

CORRIGENDUM

New Delhi, the 24th March 1961

S.O. 695.—In the notification of Ministry of Food and Agriculture (Department of Agriculture) No. F. 17-27/60-AM dated the 21st November, 1960 relating to

the Goat Hair Grading and Marking Rules, 1960, published as S.O. 2820 on pages 3374 to 3378 of Part II, Section 3(ii) of the Gazette of India dated the 26th November, 1960, in Schedules I, II and IV, in column IV "General Characteristics" *for* '75%' occurring against item 1, *read* '85%'.

[No. F. 17-27/60-AM]

V. S. NIGAM, Under Secy.

(Department of Agriculture)

(Indian Council of Agricultural Research)

New Delhi, the 20th March 1961

S.O. 696.—In pursuance of the provisions of sub-section 4(iii) of section 4 of the Indian Lac Cess Act, 1930 (No. 24, of 1930) as amended from time to time, the Rajya Sabha have re-elected Shri Lila Dhar Barooah, Ward No. 3, Noomati Road, Gauhati, Assam, Member, Rajya Sabha to be a member of the Governing Body of the Indian Lac Cess Committee representing Parliament.

[No. 3-35/60-Com.III.]

New Delhi, the 21st March 1961

S.O. 697.—Under Section 4(x) of the Indian Cotton Cess Act, 1923 (14 of 1923), the Central Government are pleased to appoint Dr. S. R. Barooah, Director of Agriculture, Assam, Shillong to be a member of the Indian Central Cotton Committee, Bombay, for a period of three years with effect from 1st April, 1961.

[No. 1-4/61-Com.IV.]

S.O. 698.—Under Section 4(x) of the Indian Cotton Cess Act, 1923 (14 of 1923) the Central Government are pleased to appoint Sarvashri Jawahir T. Kapadia and Chimanlal B. Parikh, Bombay as members of the Indian Central Cotton Committee for a period of one year with effect from the 1st April, 1961.

[No. 1-4/61-Com.IV.]

S.O. 699.—In pursuance of Sub-Sections (e) and (f) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint the Director of Agriculture, Punjab and Capt. Charan Singh, Secretary, District Farmers' Forum, Rohtak, Punjab, to represent the Government of Punjab and the oilseed growers respectively, for the term expiring on 31st March, 1963.

[No. 8-25/60-Com.II.]

New Delhi, the 23rd March 1961

S.O. 700.—In pursuance of the provisions of clause (d) of section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944), the Government of Kerala have renominated Shri P. D. Nair, Agricultural Adviser, Kerala State, as a member of the Indian Central Coconut Committee for a further period of three years with effect from 1st April, 1961.

[No. F. 8-2/61-Com.I.]

J. VEERA RAGHAVAN, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 24th March 1961

S.O. 701.—In pursuance of clause (h) of section 3 of the Drugs Act, 1940 (23 of 1940), the Central Government, after consultation with the Drugs Technical Advisory Board, hereby authorises the following pharmacopoeias for the purposes of clause (h) of the said section, namely:—

The Indian Pharmacopoeia, the Pharmacopoeia of United States, the National Formulary of the United States, the International Pharmacopoeia and the State Pharmacopoeia of the Union of Soviet Socialist Republics.

[No. F. 1-63/59-D.]

D. J. BALARAJ, Dy. Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

New Delhi, the 15th March 1961

S.O. 702.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the notification of the Government of India in the late Ministry of Transport No. S.R.O. 610, dated the 28th February, 1957, namely:—

In part II of the Schedule to the said notification under the heading:

"Department of Tourism Headquarters" for the existing entries the following entries shall be substituted, namely:

1	2	3	4	5
Staff Car Driver	Deputy Director General	Deputy Director General	All	Director General and *Ex-officio* Joint Secretary.
All other posts	Under Secretary/ Director (Administration)	Under Secretary/ Director (Administration)	All	Director General and *Ex-officio* Joint Secretary.

[No. F. 23-TA.III(9)/60.]

G. K. DOGRA, Under Secy.

(Department of Transport)

(Transport Wing)

New Delhi, the 24th March 1961

S.O. 703.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act the name of the following public institution, namely:—

"The Gujarat State Road Transport Corporation"

[No. 32-T(12)/61.]

JASWANT SINGH, Under Secy.

(Departments of Communications and Civil Aviation)

ORDER

New Delhi, the 21st March 1961

S.O. 704.—In pursuance of rule 160 of the Indian Aircraft Rules, 1937, the Central Government hereby exempts for a further period of three months with effect from 1st April, 1961, all persons in-charge of aircraft engaged in international navigation, from the operation of Clause (v) of sub-rule (2) of rule 7 of the said Rules, in so far as it requires such persons to carry in the said aircraft, the aircraft and engine log books, subject to the condition that the working copies of the aforesaid documents are carried in the said aircraft.

[No. AR 1937(69)/F. No. 10-A/21-61.]

S. N. KAUL, Under Secy.

(Departments of Communications and Civil Aviation)

(P. & T. Board)

New Delhi, the 15th March 1961

S.O. 705.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendments in the Schedule to the notification of the Government of India in the late Ministry of Communications (Posts and Telegraphs) No. S.R.O. 620, dated the 28th February, 1957, namely:—

In the said Schedule,

(1) In part II, under the heading "Offices of the Accounts Officers, Telephone Revenues", for the existing entries, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"Staff in Higher and Lower Selection Grades.	Director of Telegraphs/Director of Posts and Telegraphs.	Director of Telegraphs/Director of Posts and Telegraphs.	All	Postmaster General/ Deputy Director General (Staff).	
		Accounts Officer	(i) to (iii)	Director of Telegraphs Director of Posts and Telegraphs.	
All other Posts	Accounts Officer	Accounts Officer	All	Director of Telegraphs/Director of Posts and Telegraphs".	

(2) In part III, under the heading "Offices of the Accounts Officers, Telephone Revenues", for the existing entries, the following entries shall be substituted, namely:—

1	2	3	4	5
"All Posts	Accounts Officer	Accounts Officer	All	Director of Telegraphs Director of Posts and Telegraphs".

[No. 44/25/60 Disc.]

N. K. NAIR,
Asstt. Director General (SEA).

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 21st March 1961

S.O. 706.—It is hereby notified that, in pursuance of clause (d) of sub-section (1) read with sub-section (4) of section 4 of the Rajghat Samadhi Act, 1951, Shrimati Maimoona Sultan, a member of the Lok Sabha, has been elected as member of the Rajghat Samadhi Committee in place of Shrimati Sucheta Kripalani, who resigned from the Lok Sabha with effect from the 24th January, 1961.

[No. 1856-W/61.]

S. CHAUDHURI, Dy. Secy.

New Delhi, the 23rd March 1961

S.O. 707.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the officers mentioned in column 1 of the table below, being gazetted officers of Government, to be estate officers for the purposes of the said Act who shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entries in column 2 of the said table.

THE TABLE

Designation of officers	Categories of public premises and local limits of jurisdiction
1	2
1. Deputy Director of Horticulture, South Division, C.P.W.D., New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
2. The Deputy Director of Horticulture, North Division, C.P.W.D., New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
3. The Executive Engineer, Construction Division No. VI, C.P.W.D., New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
4. The Executive Engineer, Construction Division No. VII, C.P.W.D, New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
5 The Executive Engineer, Construction Division No. IX, C.P.W.D., New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
6. The Director of Horticulture, Central P.W.D., New Delhi.	Premises under the administrative control of the Central Public Works Department situated within the local limits of his jurisdiction.
7. The Assistant (General Manager Administration), Delhi Transport Undertaking, New Delhi.	Premises under the administrative control of the Delhi Transport Undertaking situated within the local limits of his jurisdiction.

[No. 14/3/60-Acc.]

R. C. MEHRA, Under Secy

MINISTRY OF REHABILITATION

(Office of the Chief Settlement Commissioner)

New Delhi, the 16th March 1961

S.O. 708.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed, in the State of Uttar Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the said Schedule.

THE SCHEDULE

Sl. No.	Particulars of the Property.	Name of the town and Locality in which the evacuee property is situated.	Name of Evacuee.
1	2	3	4
	DISTRICT DEORIA		
1.	Rural House North : House of Sri Uttab South : Open Land. East : Rasta West : House of Sri Birjhan.	Pipra Na ak Paiheina.	Shri Phul Hussain.

[No. 2(8)/Lands/61.]

I. N. [redacted]CHIB,
Deputy Chief Settlem[redacted]t Commissioner &
Dy. Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 21st March 1961

S.O. 709.—In exercise of the powers conferred on me by Sub-Section (2) of Section 10 of the Displaced Persons (Claims) Supplementary, Act 1954 (12 of 1954), I have delegated to Shri Parshotam Sarup, Appellate Officer-cum-Deputy Chief Settlement Commissioner with effect from 10th March, 1961, the following powers of the Chief Settlement Commissioner:—

1. Power to call for the record of any case decided by the Settlement Officer and pass order in the case under Provision to Sub-Section (3) of Section 4 of the said Act.

2. Special power of revision under Section (5) of the said Act in respect of the cases decided under the Displaced Persons (Claims) Act, 1950 (44 of 1950).

[No. 11(4)/CSC/AI-61.]

S.O. 710.—In exercise of the powers conferred on me by Sub-Section (2) of Section 10 of Displaced Persons (Claims) Supplementary, Act 1954 (12 of 1954), I have delegated to Shri Parshotam Sarup, Appellate Officer-cum-Deputy Chief Settlement Commissioner with effect from the 10th March, 1961, the following powers of the Chief Settlement Commissioner, namely:—

1. Powers to transfer cases to Settlement Officers by general or special order under Sub-Section (1) of Section 4 of the said Act.

2. Power to require a Settlement Officer to appoint one or more person to advise him in any proceedings pending before him, under Sub-Section (2) of Section 6 of the said Act.

3. Power to transfer any case pending before a Settlement Officer to another Settlement Officer under Section 7 of the said Act.

[No. 11(4)/CSC/AI-61.]

S.O. 711.—In exercise of the powers conferred on me by Sub-Section (2) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), I hereby delegate to Shri Parshotam Sarup, Appellate Officer-cum-Deputy Chief Settlement Commissioner with effect from 10th March, 1961, the following powers of the Chief Settlement Commissioner:—

1. Power to hear appeals under Section 23 of the said Act.
2. Power to hear revisions under Section 24 of the said Act.

[No. 11(4)/CSC/AI-61.]

S. W. SHIVESHWARKAR,
Chief Settlement Commissioner.

New Delhi, the 21st March 1961

S.O. 712.—In exercise of the powers conferred by Section (1) of Section 3 of the Displaced Persons (Claims) Supplementary Act, 1954 (No. 12 of 1954), the Central Government hereby appoints Shri Parshotam Sarup, Appellate Officer, as Deputy Chief Settlement Commissioner for the purpose of performing the functions assigned to such Commissioners by or under the said Act with effect from the 10th March, 1961.

[No. 11(4)/CSC/AI-61.]

S.O. 713.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby appoints Shri Parshotam Sarup, Appellate Officer, as Deputy Chief Settlement Commissioner for the purpose of performing the functions assigned to such Commissioners by or under the said Act with effect from the 10th March, 1961.

[No. 11(4)/CSC/AI-61.]

K. B. MATHUR, Under Secy.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 21st March 1961

S.O. 714.—In pursuance of section 16 of the Employees' State Insurance Act, 1948, the Central Government extends the term of appointment of Shri V. R. Natesan as Actuary in the Employees' State Insurance Corporation for a period of four years from the 21st March, 1961 (F.N.) to the 20th March, 1965 (A.N.).

[No. F. 5(4)/61-HI.]

BALWANT SINGH, Under Secy.

New Delhi, the 21st March 1961

S.O. 715.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Union Angarpathra Colliery and the Colliery Mazdoor Sangh, Dhanbad.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 38 OF 1960

PARTIES:

Employers in relation to the Union Angarpathra Colliery

AND

Their workmen.

PRESENT:

Shri Salim M. Merchant, B.A.LL.B.,—*Presiding Officer*,
Central Govt. Industrial Tribunal, Dhanbad.

Dhanbad, dated the 10th March 1961.

APPEARANCES:

For Employers: Shri D. Narsingh, Advocate, with Shri B. Desandhi, Manager,

For workmen: Shri S. Das Gupta. Secretary, Shri B. N. Sharma, Member, Executive Committee, Colliery Mazdoor Sangh, and with Shri M. B. Mukherjee, the workman concerned.

STATE: Bihar

INDUSTRY: Coal.

AWARD

The Government of India, Ministry of Labour & Employment by Order No. 2/114/60-LRII dated the 18th August 1960 made on a joint application of the parties in exercise of the powers conferred by Sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 47), was pleased to refer this industrial dispute between the parties above named for adjudication to the Industrial Tribunal, Dhanbad, constituted under Section 7A of the said Act. The subject matter of the dispute as stated in the joint application of the parties dated 14th June 1960 is as follows:—

"(a) Whether the management of Union Coal Co. Ltd., Angarpathra Colliery is justified in terminating the services of Shri M. B. Mukherjee from 18th May, 1959.

(b) If not, to what relief is he entitled to?"

2. After the above reference was made Shri G. Palit, the learned Presiding Officer of the Central Govt. Industrial Tribunal, Dhanbad, passed away on 20th January 1961 and in the vacancy so caused, the Government of India in the Ministry of Labour & Employment by its Order No. F. 21(1)/61-LR.III dated 16th February 1961 (S.O. No. 457) made in exercise of the powers conferred under Section 8 of the Industrial Disputes Act, 1947 (XIV of 47), was pleased to appoint me to that office.

3. The dispute was thereafter fixed by me for hearing on 8th March 1961 at Dhanbad and after being part heard that day and on 9th March 1961, the parties applied for time till today (10th March 1961) to negotiate for a settlement. At today's hearing the parties filed a joint application recording the terms of settlement reached between them and have prayed that an award be made in terms thereof. As I am also satisfied that the terms of settlement are fair and reasonable, I make an award in terms thereof. A copy of the joint application of the parties dated 10th March 1961, containing the terms of settlement, is annexed hereto and shall form part of this award as far as it concerns the subject matter of this reference.

4. No order for costs.

Dhanbad,

The 10th March, 1961

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal, Dhanbad.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 38 OF 1960.

Employers in relation to Union Angarpathra Colliery,

AND

Their workmen.

The employers, above-named, most respectfully beg to submit that they have agreed to pay, ex-gratia, the sum of Rs. 1,200/- (Rupees one thousand and two hundred only) to Shri Moni Bhushan Mukherjee, the workman named in the Schedule to the Order of the aforesaid reference No. 38 of 1960, referred to this Honourable Tribunal for adjudication.

2. The said sum of Rs. 1,200/- (Rupees one thousand and two hundred only) shall be in full settlement of all the claims of the said Shri Moni Bhushan Mukherjee upto-date, excluding Provident Fund dues. Shri Mukherjee has no further claim against the employers.

3. The employers shall pay the said sum of Rs. 1,200/- (Rupees one thousand and two hundred only) to said Shri Moni Bhushan Mukherjee in the office of Shri D. Narsingh, Advocate of the employers on 1st April, 1961 in the presence of Shri S. Dasgupta or Shri B. N. Sharma, representing the workmen in these proceedings.

4. The workmen accept the said offer of the employers and hereby declare that they have no further interest in these proceedings.

5. The parties, therefore, pray that this Honourable Tribunal may be graciously pleased to give its award in terms aforesaid.

And for this, the parties, the employers and the workmen herein-concerned, shall as in duty bound, ever pray.

D. NARSINGH,
Advocate.

B. N. SHARMA,
Member,
Executive Committee,
Colliery Mazdoor Sangh.

M. B. MUKHERJEE,
Workman named in the
Schedule Aforesaid.

B. DUSANDHI,
Manager,
Union Angarpathra Colliery.
For Employers.

For the workmen,
Taken on file.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal, Dhanbad.

Dated 10th March, 1961.

[No. 2/114/60-LRII.]

S.O. 716.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), and in supersession of the notifications of the Government of India in the Ministry of Labour No. S.R.O. 1000, dated the 27th April, 1955, and No. S.R.O. 2090, dated the 14th September, 1955, and in the Ministry of Labour and Employment No. S.O. 496, dated the 22nd February, 1961, the Central Government hereby appoints each of the officers mentioned in column 2 of the Table annexed hereto as a conciliation officer for—

(i) all industries carried on by or under the authority of the Central Government;

(ii) all controlled industries specified by the Central Government under sub-clause (i) of clause (a) of section 2 of the Industrial Disputes Act, 1947;

(iii) all banking companies and insurance companies; and

(iv) all mines, oil fields and major ports in the area specified in the corresponding entry in column 3 of the said Table.

S. No.	Designation of officers	Territorial jurisdiction
1	Labour Inspector (Central), Gudur.	The State of Andhra Pradesh.
2	Labour Inspector (Central), Kothagudiam.	
3	Labour Inspector (Central), Visakhapatnam.	
4	Labour Inspector (Central), Dibrugarh.	The State of Assam.
5	Labour Inspector (Central), Domchanch.	The State of Bihar.
6	Labour Inspector (Central), Ramgarh.	
7	Labour Inspector (Central), Ranchi.	
8	Labour Inspector (Central), Pakur.	
9	Labour Inspector (Central). Patna.	
10	Labour Inspector (Central), Rajkot	The State of Gujrat.
11	Labour Inspector (Central), Balaghat.	The State of Madhya Pradesh.
12	Labour Inspector (Central), Chirimiri.	
13	Labour Inspector (Central), Parasia.	
14	Labour Inspector (Central), Nagpur—1.	The State of Maharashtra.
15	Labour Inspector (Central), Poona.	

S.No.	Designation of officers	Territorial Jurisdiction
16	Labour Inspector (Central), Trivandrum.	The State of Kerala.
17	Labour Inspector (Central), Kolar Gold fields.	The State of Mysore.
18	Labour Inspector (Central), Barbil.	The State of Orissa.
19	Labour Inspector (Central), Chaibasa.	
20	Labour Inspector (Central), Cuttack.	
21	Labour Inspector (Central), Ambala.	The State of Punjab.
22	Labour Inspector (Central), Ajmer.	The State of Rajasthan.
23	Labour Inspector (Central), Bikaner.	

[No. F. 1/7/61-LRI.]

ORDERS

New Delhi, the 21st March 1961

S.O. 717.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs. T. P. Sao, Owner of Ghatkuri and Bijoy Iron and Manganese Mines, Post Office Chaibasa, District Singhbhum and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the workers of Ghatkuri and Bijoy Iron and Manganese Mines of Messrs. T. P. Sao, Mine Owner, Post Office Chaibasa, District Singhbhum are entitled to a profit sharing bonus for the year 1959-60 and if so at what rates?

[No. 23/6/61-LRII.]

S.O. 718.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Noonodih-Jitpur Colliery, P.O. Bhaga and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the superannuation of Sarvashri (1) Safidan, Shale Picker, (2) Hulas Mahato, Gateman, and (3) Bandu Bhuja, miner, employees of Noonodih-Jitpur Colliery of Messrs. Indian Iron & Steel Co. Ltd. is justified. If not, to what relief are they entitled?

[No. 2/25/61-LRII.]

S.O. 719.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bhurangia Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the refusal of the management to give employment to the 20 workmen listed below is justified. If not, to what relief are the workmen entitled?

(1) Shri Nakul Rewani.
(2) Shri Bindheswar Rewani.
(3) Shri Paban Bouri.
(4) Shri Rajak Shekh.
(5) Shri Jagadish Rewani.
(6) Shri Dholu Rewani.
(7) Shri Chanu Rewani.
(8) Shri Sahadeo Rewani.
(9) Shri Narayan Modak.
(10) Shri Bahadur Rewani.
(11) Shri Chanua Rewani.
(12) Shri Dhuma Shekh.
(13) Shri Jotu Rewani.
(14) Shri Bhola Mahato.
(15) Shri Meghu Rewani.
(16) Shri Sambhu Rewani.
(17) Shri Parsadi Rewani.
(18) Shri Bhim Rewani.
(19) Shri Mongru Rewani.
(20) Shri Owahib Khan.

[No. 2/303/60-LRII.]

S.O. 720.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Loyabad Colliery Workshop and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Having regard to the nature of duties performed by Sarvashri M. R. Ghose, B. N. Gupta, Gabriel Mondal and Shamshad Khan, Clerks Grade III of Loyabad Colliery Workshop, whether the demand of the workmen for placing the said persons as Grade II Clerks is justified. If so, with effect from which date after 2nd July 1959?

[No. 2/225/60-LRII.]

S.O. 721.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Sirka Colliery, P.O. Argada and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Sirka Colliery was justified in not taking into account the services rendered before 26th May 1956 by Shri Bodhia Saw, a grade III clerk, while fixing his wages as per the award of the All India Industrial Tribunal (Colliery Disputes) as modified by the decision of the Labour Appellate Tribunal. If not, to what relief is he entitled?

[No. 2/201/60-LRII.]

S.O. 722.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Khas Bhurangiya Colliery, Post Office Nudkhurkee (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1, of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the discharge from service of 36 workmen listed below is justified, and if not, to what relief are they entitled?

(1) Shri Sukho Mahato, Fitter Mazdoor.
(2) Shri Baith Nath Gosain, Attendance Clerk.
(3) Shri Samuridin Mia.
(4) Shri Shambhu Mahato, Mining Sirdar.
(5) Shri Kurban Mia, Mining Sirdar.
(6) Shri Juman Mia, Mining Sirdar.
(7) Shri Bishnu Mahato, Night Guard.
(8) Shri Kamaludin Mia, Prop Mazdoor.
(9) Shri Asiruddin Mia, Prop Mistry.
(10) Shri Sikandar Mia, Prop Mistry.
(11) Shri Sahabali Mia, Prop Mazdoor.
(12) Shri Suresh Dubey, Prop Mazdoor.
(13) Shri Paran Mahato, Prop Mazdoor.
(14) Shri Nizam Mia, Prop Mazdoor.
(15) Shri Khairat Mia, Prop Mazdoor.
(16) Shri Khedu Mahato, Prop Mazdoor.
(17) Shri Alijan Mia, Bailing Mazdoor.
(18) Shri Banu Goswami.
(19) Shri Chutulal Singh.
(20) Shri Katilal Singh.
(21) Shri Lalu Singh.
(22) Shri Babumani Singh.
(23) Shri Galu Singh.
(24) Shri Gangu Rai.
(25) Shri Charku Rai.
(26) Shri Khedan Goswami.
(27) Shri Kishan Goswami.
(28) Shri Gobardhan Goswami.
(29) Shri Bhusan Goswami.
(30) Shri Ramu Mahato.
(31) Shri Chutu Mahato.
(32) Shri Lakhan Mahato.
(33) Shri Nogu Goswami.
(34) Shri Fidu Mahato.
(35) Shri Satan Rai.
(36) Shri Bidyadhar Pandey.

[No. 2/132/60-LRII.]

S.O. 723.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ashakutty/Phularitand Colliery, P.O. Katrasgarh, Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the retrenchment of 90 workers (listed below) of Incline No. 2/9 of Ashakutty/Phularitand Colliery is justified? If not, to what relief are they entitled?

S. No.	Day shift	2/9 Incline	S. No	Night shift	2/9 Incline
1	Birendra Kumar Upadhyaya.	Overman	1	Badri Singh	Munshi
2	Radha K. Singh.	Munshi	2	Najir Mian	H. Khalasi
3	Ramjani Maiank	H. Kh.	3	Karwa Rajwar	Fireman
4	Ramlagan Dusad	Fireman	4	Shiv Lal	Shift finrer
5	Sneram Mali	Safiner	5	Dukhi	Khuta mistri
6	Bapu Bhuia	Fireman	6	Bhuklal	Khuta cooli
7	Lakhuman Koiri	Khuta Mistiri	7	Jagatnaram Tewari	Do.
8	Gahanu Nanit	Khuta cooli	8	Bangali Bhuia	U.G. Trammer
9	Devnaram Ahir	Do.	9	Jamuna Bhuia	Do.
10	Badan Kahar	U.G. Trammer	10	Dwarika Bhuia	Do.
11	Shakur Mia	Do.	11	Dhuri Ram	Do.
12	Usman	Do.	12	Munshi Dusad	Do.
13	Mangar Dusad	Do.	13	Moti Pasi.	Do.
14	Mukhdev Ram	Do.	14	Aghnoo Nunia	Do.
15	Lakhur Pasi	C.P.	15	Ramjiwan Kumhar	Do.
16	Bhulha Shah	Do.	16	Ramnath Pasi	Do.
17	Padarath Beldar	Do.	17	Ram Nashib	Do.
18	Cahitan Belder	Do.	18	Banshi Raj	Do.
19	Ramkhelawan	Do	19	Durjen Pasi	Do.
20	Baija Bilaspuri	Do.	20	Shivnath Pasi	Do.
21	Mayaram Ganda	Do.	21	Nankhu Pasi	Do.
22	Panchu Pasi	Do.	22	Dileshwar Ganda	Do.
23	Baijnath Sah	Do.	23	Tiloki Sah.	C.P. Loader
24	Jagu Gope	Do.	24	Badh Sah	Do.
25	Nageswar Belder	C.P. Loader	25	Bhikhan Sah	Do.
26	Nandkishore Dusad	Do.	26	Sarangi Bhar	Do.
27	Balgobind Bhuia	Do.	27	Jagpati Alur	Do.
28	Devki Bhuia	Do.	28	Balai Ram Ahir	Do.
29	Rogai Koiri (Gorakhpur)	Do.	29	Nageswar Ahir	Do.
30	Harkhu Koiri	Do.	30	Tetar Bhuia	Do.
31	Ramlet Pasi	Do.	31	Punawa Dusad	Do
32	Paku Koiri	Do.	32	Somar Peldar.	Do.
33	Fagu Koiri	Do.	33	Bhave Nath	Do.
34	Saraju Gope	Do.	34	Parbhu Gope	Do.
35	Hari Gope	Do.	35	Parbhu Pasi	Do.
36	Mewa Gope	Do.	36	Keshar Gope	Do.
37	Jahur Mian	Do.	37	Bhudal Pasi	Do.
38	Manrai Bhar	Do.	38	Mahani Pasi	Do.
39	Khun Khun Koiri	Do.	39	Ramchandra Pasi	Do.
40	Ram Asrat Koiri	Do.	40	Feguni Bhuia	Do.
41	Haricharan Bhuia	Do.	41	Rajwa Bhuia	S. Trammer.
42	Kishun Bhuia	S. Trammer	42	Sanchi Bhuia	Do.
43	Bangali Bhuia	Do.	43	Bandha Bhuia	Do.
44	Shama Bhuia	Do.	44	Kapil Kandu	Do.
45	Ramdeyal Bhur.	Do.			
46	Murad Mian	Tandel.			

[No. 2/113/60-LRII]

S.O. 724.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to Messrs New Churulia Coal Company Limited, Shivsagar P.O. Domchanch, District Hazaribagh and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer, the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the lock-out of the workmen of the Bauxite Mine (Bagru Hills) with effect from 19th November 1960 was justified and if not, to what relief are the workmen entitled and from whom i.e. whether from the management of Messrs New Churulia Coal Company Limited, Shivsagar Post Office Domchanch, District Hazaribagh or their Raising Contractor Shri Jalil Ahmed.

[No. 23/76/60-LRII.]

S.O. 725.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Diamond Tetturiya Colliery, Post Office Katrasgarh and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of the following twenty-four workmen was justified, and if not, to what relief are they entitled?

1. Shri Satish Chandra Acharjee
2. Shri Ram Badan Singh
3. Shri Mahabir Barhi
4. Shri Karmu Mahato
5. Shri Ruplal Mahato
6. Shri Juman Mian
7. Shri Sanu Mian
8. Shri Nizam Mian
9. Shri Nakul Rajwar
10. Shri Ashu Mandal
11. Shri Ismail Mian
12. Shri Makroo Rawani
13. Shri Faguni Bhula
14. Shri Mangla Rajwar
15. Shri Manik Rajwar
16. Shri Aghori Hari
17. Shri Chhotelal Mahato
18. Shri Giridhari Mahato
19. Shri Tulsi Bhuiya
20. Shri Gope Mahato
21. Shri Janki Mahato
22. Shri Saheb Mahato
23. Shri Chhota Sawkhi Bhuia
24. Shri Manu Barhi

[No. 2/37/61-LRII.]

New Delhi, the 22nd March 1961

S.O. 726.—Whereas the Central Government is of opinion that an industrial dispute, exists between the employers in relation to the Bhagaband Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management was justified in terminating the services of Sarva Shri Garu Mahato, Sital Lalla and Jyoti Bowri, winding engine khalasis? Whether they are entitled to any relief, and if so, to what relief?

[No. 2/144/59-LRII.]

A. L. HANDA, Under Secy.

New Delhi, the 24th March 1961

S.O. 727.—The following draft of rules further to amend the Coal Mines Labour Welfare Fund Rules, 1949, which the Central Government propose to make in exercise of the powers conferred by section 10 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947), is published, as required by sub-section (1) of the said section, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 1st June 1961.

Any objection or suggestion which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendment

1. These rules may be called the Coal Mines Labour Welfare Fund (Amendment) Rules, 1961.

2. In the Coal Mines Labour Welfare Fund Rules, 1949 in sub-rule (2) of rule 5,

(i) the words "also of the Madhya Pradesh Coalfield Sub-Committee and in the case of other Coalfields Sub-Committees" shall be omitted, and

(ii) for the words "meetings of the other Coalfields Sub-Committees" the words "meetings of Coalfields Sub-Committees" shall be substituted.

[No. 1/2/61/MII.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 27th March 1961

S.O. 728.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Bombay Port Trust, Bombay and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY.

REFERENCE No. CGIT-33 OF 1960.

Employers in relation to the Bombay Port Trust Bombay.

AND

Their workmen represented by the Bombay Port Trust Employees' Union.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

Bombay, the 15th March 1961

APPEARANCES:

For the employers: Shri M. R. S. Captain, Officiating Legal Adviser with Shri R. N. Vinekar and Shri H P Tavadia

For the workmen: Shri S. J. Deshmukh, Assistant Secretary, Bombay Port Trust Employees' Union.

STATE: Maharashtra. INDUSTRY: Ports and Docks.

AWARD

The Government of India by the Ministry of Labour and Employment's Order No. 28/38/60/LRIV dated 15th October 1960, on a joint application of the parties dated 21st May 1960, was pleased, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947, (14 of 1947), to refer the industrial dispute in respect of the following matters specified in the schedule to the said Order, to me for adjudication.

SCHEDULE

"How the period of strike of the workmen of the Salvage Section of the B.P.T. should be treated for the purposes of payment *e.g.* by way of monetary relief if any, or by treating the period as leave with or without pay."

2. After the usual notices were issued on the parties, the Bombay Port Trust Employees Union filed its statement of claim dated 31st January 1961 to which the Bombay Port Trust filed its written statement in reply dated 20th February 1961, after which the dispute was taken up for hearing, which was concluded on 2-3-1961.

3. It is admitted that the employees of the salvage section, which forms part of the engineering department of the Bombay Port Trust, went on strike from the 15th February 1960 till 22nd March 1960, the workmen having resumed work on 23rd March 1960. The total duration of the strike was thus 37 days. It is admitted that by an order dated 11th March 1960 made under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947) the Central Government referred for adjudication to this Tribunal eleven demands, being the majority of the demands over which these workmen had struck work, and on the same day issued an order under section 10(3) of the same Act prohibiting the continuance of the strike. The Bombay Port Trust on receipt of this prohibitory order displayed the same. A copy of the order was also served on the General Secretary of the Bombay Port Trust Employees' Union. The Bombay Port Trust on 12th March 1960 also displayed a notice on the notice board intimating to the employees that the dispute between the union and the employers relating to the demands of the employees had been referred to adjudication by the Government and that the continuance of the strike was against law and the Chairman of the Bombay Port Trust appealed to the employees to resume work immediately. A copy of that notice in English with its translation in Hindi and Marathi as displayed by the Port Trust, has been annexed to the Port Trust's written statement (exhibit 2 collectively), and this fact has not been denied by the union. However, it is admitted that in spite of the prohibitory order of the Government under section 10(3) of the Industrial Disputes Act, 1947, the strike was continued till about 4 p.m. on 23rd March 1960, after which it was called off.

4. It is conceded by Shri Deshmukh on behalf of the union that the continuance of the strike by the workmen from 11th March 1960 in contravention of the Government order of the same date prohibiting the continuance of the strike under sub-section 3 of section 10 of the Industrial Disputes Act, was illegal under section 24(1)(ii) of the Act. Shri Captain, the learned Legal Adviser of the Port Trust has argued that the continuance of the strike after it was prohibited by the Government Order dated 11th March 1960, made the whole strike illegal from its very inception and did not merely make its continuance after 11th March 1960 illegal. He has in support of this argument relied upon the language of sub-section (1) of section 24 which is as follows:—

"A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or 23; or

(ii) it is continued in contravention of an order under sub-section (3) of section 10."

Shri Captain's argument was that the continuance of the strike in contravention of an order under sub-section (3) of section 10 made the whole strike illegal as the section did not provide that merely the continuance of the strike would be illegal.

5 I am, however not impressed by this argument. I think the provisions of sub-section (1) of section 24 be read with the provisions of sub section (2) of section 24 which is as follows:—

"(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, Labour Court, Tribunal or National

Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10."

In my opinion under this sub-section what is made illegal after an order under sub-section (3) of section 10, is the continuance of the strike and what becomes illegal is the period of the strike after the promulgation of the Government order. Under the provisions of sub-section (2) of section 24, a strike which at the commencement was legal would continue to be legal if no orders were passed prohibiting its continuance under sub-section (3) of section 10. I do not think the Legislature intended that when a strike is continued in contravention of the prohibition against its continuance made after the order of reference under section 10, shall be deemed to be illegal *ab initio*, as what is prohibited is the continuance of the strike.

6. It is now settled law that a strike which is illegal cannot be deemed to be justified. Their Lordships of the Supreme Court in the case of Indian General Navigation and Railway Company Ltd., and another *vs.* their workmen (A.I.R. 1960 (S.C.) P.220/221] have laid down that it is not permissible to characterise an illegal strike as justifiable. Their Lordships in that case observed as follows:—

"A strike in respect of a public utility service, which is clearly illegal, cannot at the same time be characterised as "perfectly justified." These two conclusions cannot in law co-exist. The law has made a distinction between a strike which illegal and one which is not, but it has not made any distinction betwe n an illegal strike which may be said to be justifiable and one which is not justifiable. This distinction is not warranted by the Act, and is wholly misconceived, specially in the case of employees in a public utility service. Every one participating in an illegal strike, is liable to be dealt with departmentally, of course, subject to the action of the department being questioned before an Industrial Tribunal, but it is not permissible to characterise an illegal strike as justifiable. The only question of practical importance which may aris in the case of an illegal strike would be the kind or quantum of punishment, and that, of course, has to be modulated in accordance with the facts and circumstances of each case. Therefore, the tendency to condone what has been declared to be illegal by statute, must be deprecated, and it must be clearly understood by those who take part in an illegal strike that thereby they make themselves liable to be dealt with by their employers."

7. In my opinion even though a strike may not be illegal for its entire duration, the taint of illegality with which its continuance is tainted because of the contravention of a prohibitory order by Government, under section 10(3) of the Industrial Dispute Act, would certainly affect the question whether any compensation would be payable to the workmen for the legal duration of the strike, assuming that the strike was otherwise justified. In my opinion, even if a justified strike is legal only for a part of its duration and is illegal for the rest of the period during which it is continued, the workmen would not be entitled to any compensation for the legal duration of the strike as the action in continuing the strike becomes illegal under section 24(1)(ii) of the Industrial Disputes Act. If it were to be held otherwise, it would result in the incongruous position of the strikers becoming liable to penal punishment for the illegal duration of the strike i.e. for the period it is continued in violation of the prohibitory order of Government under sub-section (3) of section 10 of the Act, and at the same time their being compensated for the earlier legal and justified period of the same strike. In my opinion industrial law does not contemplate such an incongruity.

8. On the merits, Shri Deshmukh for the Union has urged that the workmen should be paid their wages for the period of the strike from 15th February 1960 on which it commenced till 11th March 1960, when its continuance was prohibited by Government. The main ground on which this claim is based is that the strike was justified and that the workmen had resorted to the strike in order to secure redress of their long standing and justified grievances, to which the Port Trust had paid no heed. The union in its written statement has pleaded that the strike was not only justified but was also reasonable and was the result of the intransigent attitude of the authorities, who denied to the workmen of the salvage section their legitimate and just demands. The Port Trust on the other hand has urged that the entire blame for the strike rested on the union and has pointed out that the union resorted to the strike without having fully utilised the machinery for peaceful settlement of the dispute. It has further argued that the demands were not justified and in any case were not of such a pressing or emergent nature as to justify the workmen resorting to a prolonged strike of 37 days,

paralysing the working of the salvage section, which had repercussions on the general working of the docks.

9. In order to decide this conflicting claims of the parties, it is necessary to give a brief account of the history of the dispute to which both parties referred in some detail at the hearing. It is admitted that the union by its letter dated 19th November 1959 addressed to the Secretary of the Bombay Port Trust made four demands for the divers employed in the salvage section. The demands were (1) for raising the rate of dip allowance of divers for underwater working from 50 nP. to Rs. 2.50 nP. per hour, *i.e.* increasing the dip allowance five fold (2) for insurance of divers against death or disability for not less than Rs. 10,000, (3) lump sum payment for work done on storm and lock gates and caissons and (4) a special allowance equivalent to 25% of wages per month from the date on which the work on the gates was started till the date on which the work was concluded. This important letter appears to have altogether escaped the notice of the port trust authorities. Thereupon, on 10th December 1959, Shri Shanti Patel, General Secretary of the Union, addressed a D.O. letter to the Chairman of the Bombay Port Trust requesting him personally to look into the outstanding labour disputes which were pending settlement and stating that the workers were perturbed over the delay that was taking place. With that letter he enclosed a list of 17 demands, which according to him required the Chairman's urgent attention. Demand No. 13 in that list referred to the demands contained in the union's letter of 19th November 1959. There was no response to this letter also, and the union on 3rd February 1960 addressed another letter, this time to the Secretary of the Bombay Port Trust, marking it as "Very Urgent". The subject matter of the letter was stated to be. "Grievances of divers, deck-hands etc. employed in Salvage Section." After reproducing the four demands in respect of divers contained in the unions earlier letter of 19th November 1959 the union put forward six additional demands in respect of (1) woollen coats and uniforms, (2) quarters, (3) scales of pay, (4) pension, (5) pension payable to Mrs. Dean (Mr. Dean was a senior foreman diver who died whilst on duty) and (6) the demands to be made effective from 1st November 1959. The General Secretary of the Union concluded his letter by emphasising the serious discontent that was prevailing amongst the ranks of the workers. He further stated, "we have been directed by them to convey to you that if their reasonable demands are not conceded before 15th February 1960, they will have no alternative but to refuse to do work in future. We may also add that it is not our desire to give any threat. But at the same time it will be appreciated that it will not be possible for us to do without adequate safeguards in future, the work which involves exceptional danger to the lives of the workmen. We need not add that we shall be happy to settle the matter amicably across the table."

10. Surprisingly enough, there was no response from the Bombay Port Trust authorities even to this letter till after the workmen of the salvage section struck work on 15th February 1960, as intimated by their letter dated 3rd February 1960. In the mean-time by a covering letter dated 11th February 1960, the General Secretary of the Union forwarded a copy of his letter of 3rd February 1960, to the Regional Labour Commissioner for information and necessary action. Thereafter, on 12th February 1960 in continuation of its previous letter of 3rd February 1960 the union made two additional demands (1) for creation of two posts of fitters for maintenance and overhaul of the diving pumps and the diving gears which were then being done by linesmen and (2) for the payment of an allowance to the linesmen on the lines of the under water dip allowance paid to the divers. This letter was received by the Bombay Port Trust authorities on 15th February 1960. But, as stated earlier, on 15th February 1960 the workmen of the salvage section struck work. It may be noted that it is admitted that this was the date on which the work of lifting the caissons at the Victoria Docks entrance for the placement of new roller pathways was to commence. After the strike had commenced the Junior Assistant Secretary of the Bombay Port Trust wrote a letter dated 16th February 1960 to the General Secretary of the union in reply to the union's letters dated 3rd February 1960 and 12th February 1960 above referred to. In that letter the Port Trust complained that though in his letter dated 3rd February 1960 the General Secretary of the Union had stated that they would be able to discuss the demands with the Administration, no attempt was made by him to hold any discussion with the General Manager of the Port Trust although he was in daily contact with him for some time prior to his departure for Calcutta on 9th February 1960. He further characterised the starting of the strike on the day when the work of lifting the caisson at Victoria Dock entrance for placement of the new roller pathways was to commence, as being "opportunistic and irresponsible." He further stated that the demands on behalf of the fitters and linesmen contained in the letter of the 12th February was received by the Port Trust on the 15th, the day on which the strike started. He concluded the letter by stating that the demands put forward

on behalf of the staff of the salvage section were so ill-conceived and unrealistic that there would be little advantage in discussing them with the union. He further stated that the administration would have not objection to the matter being taken up in conciliation by the Regional Labour Commissioner by the strike being called off and further action being taken in consultation with the Regional Labour Commissioner. To this letter the union replied by its letter of 17th February, 1960 in which after referring to the letters which the union had addressed commencing with its letter of 19th November, 1959 and ending with its letter of 12th February, 1960, it stated that though the union had made all attempts for getting the dispute settled amicably it was the Port Authorities that had kept quite and therefore its charge that no attempt was made by the General Secretary to discuss the matter with the General Manager of the Port Trust was not justified. It recorded its protest against the administration charactering the strike as, "opportunistic and irresponsible". The General Secretary stated that the union was willing to settle the dispute across the table and hoped that the Port Trust would appreciate the reasonableness and justness of the demands of the workers and settle the dispute to the satisfaction of all concerned. The General Secretary further referred to the fact that the administration had refused to agree to refer for adjudication to a Tribunal the dispute regarding the staff working at Butcher Island, Pir Pau and Wadala on the oil pipelines and that it feared that this attitude of the Port authorities did not indicate a willingness on the part of the Port Trust to bring about an amicable settlement of outstanding disputes.

10-A. It appears that on receipt of the union's letter of 11th February, 1960, asking him to intervene in the dispute, the Regional Labour Commissioner (c) took up the dispute in conciliation on 20th February, 1960. But prior to that he appears to have held discussions with the parties and he advised the union to withdraw the strike and to follow the constitutional procedure, which the union, according to the Regional Labour Commissioner, was not prepared to do. Thereafter, the matter was discussed in a joint meeting of the parties on 20th February, 1960. But there was no settlement, and the Regional Labour Commissioner submitted his failure report to the Government.

11. At the hearing, Shri Deshmukh's contention was that the workmen were justified in resorting to this strike because the Port Trust authorities had taken no notice of the demands which the union had been pressing in writing since 19th November, 1959 and that in sheer exasperation the workmen were compelled to go on strike in order to secure redress of their grievances. Shri Captain for the Bombay Port Trust has on the other hand argued that the demands were not of such a pressing nature as to justify the workmen resorting to a strike and that if the General Secretary of the Union had met the General Manager of the Port Trust before he left Bombay on 9th February, 1960 and discussed matters with him, it would have been possible to bring about a solution of the dispute. After a careful perusal of the correspondence referred to above and after hearing the submissions of the parties, I am constrained to observe that the failure of the Port Trust authorities even to acknowledge any of the four letters addressed to it by the union between 19th November, 1959 and 12th February, 1960 and particularly the letter of 3rd February, 1960, in which the union had stated that the workmen would resort to a strike from 15th February, 1960, was deplorable, as it gave the union an opportunity and an excuse to resort to the strike. However, it appears to me that in this case the union cannot be said to be justified in resorting to a strike because it did not give the conciliation machinery provided under the Industrial Disputes Act a reasonable opportunity before resorting to the strike. It was so late as on 11th February, 1960 that the union forwarded to the Regional Labour Commissioner a copy of its letter dated 3rd February, 1960 addressed to the Secretary, Bombay Port Trust containing certain demands. By its letter of 12th February, 1960 addressed to the Secretary, Bombay Port Trust, the union made further demands and a copy of this letter was simultaneously forwarded to the Regional Labour Commissioner. But before the Regional Labour Commissioner could have sufficient time to bring the parties together and hold discussions in conciliation, the union started its strike on 15th February, 1960.

12. It appears that before the regional Labour Commissioner the Port Trust was prepared to sign a joint application for adjudication on the strike being called off and the work being resumed immediately. But it was not prepared for arbitration. The union on the other hand was not agreeable either to voluntary arbitration or adjudication, unless at least some of the demands were immediately conceded.

13. Shri Deshmukh in support of his demand for payment of wages to the strikers for the strike period has relied upon the decision of the Labour Appellate Tribunal in the case of Dalmia Cement (Bharat) Ltd., and their workers (1955

II LLJ p. 466) where the workmen were granted their wages for the period of a justified strike. But there the strike was launched in protest against the sudden and premature retrenchment of a large number of workmen. In that case it was held that where the services of a number of temporary workmen were terminated suddenly by a general notice and also prematurely, the strike lauched by the workmen of the company as a measure of protest against such retrenchment must be held to be justified and the concerned workmen must be awarded their wages for the period of such strike. But in my opinion in the instant case, the demands putforward by the union were not of such pressing urgency as to justify the precipitate action of a strike.

14. It is true that by my award in Reference No. CGLIT-15/60 which dispute was referred to me for adjudication by Government Order dated 11th March, 1960, above referred to, I rejected all the demands of the union except one. But that fact by itself would not decide whether the strike was justified or not because as laid down by the Labour Appellate Tribunal in the case of Bihar Firebricks and Potteries Workers Union and Bihar Firebricks Potteries Ltd., (1953 I LLJ 49—52) strike is a legitimate and hard-won weapon in the hands of the workmen and it would not be proper to judge whether a strike is justified or not from the result of an adjudication; and that a strike cannot be said to be unjustified unless the reasons for it are absolutely perverse and unsustainable.

15. But as held by the Supreme Court in the case of the management of Chandramalai Estate *vs.* it workmen and another [A.I.R. 1960 (S.C.) p. 902]:—

> "While on the one hand it has to be remembered that strike is a legitimate and sometimes unavoidable weapon in the hands of labour, it is equally important to remember that indiscriminate and hasty use of this weapon should not be encouraged. It will not be right for labour to think that for any kind of demand a strike can be commenced with impunity without exhausting reasonable avenues for peaceful achievement of their objects. There may be cases where the demand is of such an urgent and serious nature that it would not be reasonable to expect labour to wait till after asking the Government to make reference. In such cases, strike even before such a request has been made may well be justified. In our opinion the workmen might well have waited for some time after conciliation efforts failed before starting a strike and in the meantime to have asked the Government to make the reference. They did not wait at all The conciliation efforts failed on November 30, 1955, and on the very next day the union made its decision on strike and sent the notice of the intended strike from the 9th December, 1955, and on the 9th December 1955 the workmen actually struck work. The Government appear to have acted quickly and referred the dispute on January 3, 1956. It was after this that the strike was called off. We are unable to see how the strike in such circumstances could be held to be justified."

In this case, the Union resorted to a strike even before conciliation proceedings could commence.

16. In this case, originally only four demands were made by the union's letter dated 19th November, 1959. Six additional demands were made on 3rd February, 1960 and two additional demands in respect of linesmen were added on 12th February, 1960. I cannot say that I am satisfied that there was such an urgency in any of the demands made by the union to justify the workmen resorting to a strike even before the conciliation machinery could be put in motion. It is pertinent to remember in this case that the union sent to the Regional Labour Commissioner its letter on 3rd February, 1960 only on the 11th February and resorted to the strike before conciliation proceedings could commence. The Port Trust has argued, and I think with a measure of substance, that this was done deliberately in order to avoid the strike becoming illegal, under section 24(1) of the Industrial Disputes Act as it would have become. if the strike had commenced after conciliation proceedings had started I am of the opinion that there is substance in the Port Trusts contention that if the Union had sent copy of its letter dated 3rd February, 1960 to the Regional Labour Commissioner, Conciliation proceedings would surely have been entered into by 15th February, 1960. and the strike would then have been clearly illegal under section 24(1)(i) of the Industrial Disputes Act as being in violate of section 23(a) of the Act.

17. It was next argued by Shri Deshmukh that the demands were justified in that the Port Trust itself had before the union had called off the strike, conceded the demand for payment of a special compensation in addition to the

amount available under the Workmen's compensation Act to the divers. But the fact that one of the demands was conceded would not lead to the necessary conclusion that a strike which has been launched in respect of as many as twelve demands could be considered to be otherwise justified. It may be that a union may be able to secure the concession of one or two of a large number of demands as a face saving device before calling off a prolonged strike and that an employer may be inclined to grant it to induce such a strike being called off. This appears to have been such a case, because after the Port Trust had agreed to grant higher compensation to the divers than they would be entitled to under the Workmen's Compensation Act, the strike was called off.

18. After an anxious consideration of all the facts and circumstances of the case and the submissions made by the parties, I am more than satisfied that the workmen were not justified in resorting to this strike and are not entitled to any payment for the period of the strike nor can it be treated as leave with pay. At the hearing, the Port Trust was not seriously opposed to allowing the period of the strike being treated as leave without pay and that is the utmost that can be done for the workmen. I therefore direct that the period of the strike from 15th February, 1960 till it was called off on 23rd March, 1960, shall be treated as leave without pay.

19. Before parting with this reference, I cannot help stating that it appears to me that a greater sense of responsibility should be shown by unions before they resort to strike in public utility undertakings like the docks and ports than has been shown by the Union with regard to the instant strike. The General Secretary of the Bombay Port Trust Employees' Union in a letter which he had addressed to the Hon'ble Labour Minister, a copy of which has been filed by the union, had stated that he did understand that the Port and Dock industry was "vital to the economy of our country." I earnestly trust that this aspect will be borne in mind by this Union before it resorts to or continues illegal strikes in docks, which are after all public utility undertakings "vital to the economy of the country."

No order as to costs.

Sd/- SALIM M. MERCHANT
Presiding Officer,
Central Government Industrial Tribunal, Bombay.

[No 28/38/60/LR.IV.]

ORDER

New Delhi, the 24th March 1961

S.O. 729.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Cooperative General Insurance Society Limited, Calcutta, and their workmen in respect of the matters specified in the Schedule hereto annexed:

And whereas the Central Government considers it desirable to refer the said dispute for adjudication:

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act

SCHEDULE

Whether the terms and conditions of service of the workmen in the Co-operative General Insurance Society Limited, Calcutta, in respect of the following matters call for any improvement and, if so, to what extent:—

(1) Scales of pay and dearness allowance
(2) Hours of work.
(3) Payment of overtime.
(4) Retirement benefits and gratuity
(5) Retirement age.
(6) Leave—casual, sick and privilege.
(7) Provident Fund.
(8) Holidays

[No. 11(23)/60-LRII.]

G. JAGANNATHAN, Under Secy

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS DELHI, 1961